

# City Of Holyoke Zoning Ordinance

Effective Date: February 19, 2002



## **Holyoke Planning Board**

**20 Korean Veterans Plaza, Rm 406**

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<i>September 7, 2006</i>	92	Section 9.3.6 Special Permits. Fees. <i>Publication by applicant for Council Special Permits or reapply, as well as setting new fees.</i>
<i>September 7, 2006</i>	14	Section 2.0 Definitions. <i>Addition of the definition for Landscaped Open Space</i>
<i>September 7, 2006</i>		Section 6.1.8 Residential Driveways
<i>October 4, 2006</i>	<i>map</i>	Zoning Map <i>170 Sargeant St &amp; 325 Pine Street DR to BG</i>
<i>April 15, 2008</i>	15	Section 2.0 Definitions. <i>Add Refuse Transfer Station and amend Recharge Area</i>
	25	Section 4.3 Table of Principal Uses – <i>Add “#9 Refuse transfer station” under subsection “D Industrial Uses”</i>
	56	Section 7.2 Regulations for Specific Uses Available by Special Permit. <i>Add 7.2.14 Refuse Transfer Stations</i>
<i>June 3, 2008</i>	96-107	Section 8.9 Smart Growth Overlay District <i>New Chapter 40R Section</i>
<i>June 3, 2008</i>	88	Section 8.4 <i>Remove and replace Professional Office Overlay District Ordinance.</i>
<i>June 17, 2008</i>	48	Section 7.1.1 Hospital, Nursing Home. <i>Add Special Permit for Height to exceed that allowed by underlying zone.</i>
<i>June 17, 2008</i>	32	Section 5.1.2 Frontage. <i>Clarify the measurement of depth on corner lots.</i>
<i>September 2, 2008</i>	11/15	Section 2.0 Definitions. <i>Motor Vehicle Related Amendments</i>
	22	Section 4.3 Table of Principal Uses. <i>Add #16 Motor vehicle Service Station w/ Fast food and/or convenience goods &amp; Add #17 Motor vehicle repair garage</i>
	51	Section 7.2.1 <i>Remove section heading and replace with Motor Vehicle Service Station</i>
	56	Section 7.2.13 Outdoor sales lots for new and used motor vehicle and trucks, and marine and recreational vehicles. <i>Remove and replace</i>
<i>November 12, 2009</i>	<i>map</i>	Zoning Map <i>RIA to RO 45 Holyoke Family Road – Geriatric Authority</i>
<i>November 19, 2008</i>	55	Section 7.2.12 Commercial Storage Containers. <i>Remove and replace</i>
<i>November 19, 2008</i>	28	Section 4.4.10 Temporary Storage Units. <i>Add new section.</i>
<i>November 19, 2008</i>	12	Section 2.0 Definitions. <i>Delete Commercial Storage Container, add Temporary Storage Unit.</i>
<i>November 19, 2008</i>		Section 6.3.8 Commercial storage container. <i>Remove and replace section.</i>
<i>November 19, 2008</i>	13	Section 2.0 Definitions. <i>Remove and replace Gross Floor Area definition</i>
<i>November 19, 2008</i>		Section 3.1 Class of Districts. <i>Add RM-LD to listing.</i>
<i>November 19, 2008</i>	12	Section 2.0 Definitions. <i>Amend definition of multifamily from 3 to 4 units</i>
<i>November 19, 2008</i>	61	Section 7.4 Multifamily Dwellings. <i>Remove and replace</i>
<i>November 19, 2008</i>	101	Section 8.10 Low-Density Multifamily Residential. <i>Insert new Section.</i>

DATE	PG	AMEND #	DESCRIPTION
January 6, 2009	map		Zoning Map <i>IP to IG Whiting Farms Road</i>
January 26, 2009	42		Section 6.4 Signs <i>Remove and Replace</i>
January 26, 2009	10		Section 2 Definitions <i>Amend Sign Definition</i>
June 18, 2009	58		Section 7.2.13 Motor vehicle repair and auto body ordinances
October 6, 2009	map		Zoning Map <i>RIA to R2 Lower Westfield Road</i>
December 15, 2009	54		Delete Section 7.2.1. Non-Auto Products by S.P. review
December 15, 2009	106		Section 10 <i>Site Plan Review Comprehensive Amendment</i>
December 15, 2009	38		Section 6.1.9. Allow Common Driveways
February 17, 2010	map		Zoning Map <i>DR to BH South Summer Street</i>
May 6, 2010	31		Section 4.5 Swimming Pools <i>amended to meet State Code</i>
June 3, 2010	31		Section 4.6.2 Fence Height <i>amended to allow 8' fences</i>
November 22, 2010	20		Section 2 Definitions <i>warehouse definition amended to meet current standards</i>
February 4, 2011	74		Section 7.8 Wireless Telecommunication Facilities <i>Comprehensive Amendment</i>
April 22, 2011	80		Section 7.9 Solar Facilities. <i>Insert new section.</i>
December 9, 2011	map		Zoning Map <i>R-2 to BL 1767 Northampton Street</i>
June 8, 2011	map		Zoning Map <i>IP to IG 161 Lower Westfield Road</i>
March 7, 2013	25	108	Delete Section 4.3 Table of Principal Uses - <i>Outdoor Driving Range</i>
March 7, 2013	58	109	Delete Section 7.2.10. <i>Outdoor golf driving range</i>
March 7, 2013	30	110	Section 4.5.3 Safety Barrier. <i>Delete – in accordance with 780 CMR 120.M.105</i>
April 4, 2013	18	111	Section 2 Definitions. <i>Add Split-Zone Parcel (Lot)</i>
April 4, 2013	37	112	Section 5.5 Split-Zone Parcels. <i>Insert new Section.</i>
April 16, 2013	17	113	Section 2 Definitions. <i>Office, professional definition. Remove and replace</i>
June 5, 2013	14	115	Section 2 Definitions. <i>Add Fence Definition</i>
June 5, 2013	30	116	Section 4.6 Fences <i>Remove and Replace</i>
June 5, 2013	85	117	Section 8.1 Floodplain Overlay District (FOD). <i>Remove and Replace</i>
June 5, 2013	map	118	Zoning Map <i>R2 to RO, 1789 Northampton Street</i>
November 22, 2013	88	119	Section 8.1 Flood Plain Overlay District (FOD). <i>Add 8.1.10 Purpose</i>
November 22, 2013	96	120	Section 8.4 Professional Office Overlay District (POOD). <i>Add 8.4.0 Purpose</i>
November 22, 2013	36	121	Section 5.2 Table of Dimensional Regs. <i>Remove and replace section.</i>
August 6, 2014	85	122	Section 7.10 Medical Marijuana Facilities. <i>Insert new section.</i>
August 6, 2014	23	123	Section 4.3 Table of Principal Uses. <i>Add #37</i>
August 6, 2014	48	124	Section 6.4.6 Signs in Business and Industrial Districts. <i>BH**</i>
May 19, 2015	Map	125	Zoning Map <i>BG to BH Whiting Farms Road 18-acre parcel</i>
May 19, 2015	Map	126	Zoning Map <i>BG to BH 200 Whiting Farms Road</i>
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November 17, 2015	80	128	Section 7.8.3:13 <i>Wireless Telecommunication</i>
May 3, 2016	56	129	Section 7.1.1 <i>Hospitals, Nursing Home</i>
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October 7, 2016	Map	134	Zoning Map <i>RA to RO 34 Lower Westfield Road</i>
August 1, 2017	48	137	Section 6.4.2 <i>Definitions</i> ; 6.4.3 <i>Wayfinding Signs</i> 6.4.5 (5) <i>Exempt &amp; Institute Signs</i>
June 7, 2017	58	140	Section 7.1.6 <i>Drive-Thru Facility or Use with Drive-Thru Service</i>

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## **SECTION 1.0 PURPOSE AND APPLICABILITY**

### **1.1 PURPOSE**

These regulations are enacted to promote the general welfare of the City of Holyoke, to protect the health and safety of its inhabitants, to encourage the most appropriate use of land throughout the city, to preserve the cultural, historical and agricultural heritage of the community, to increase the amenities of the city, and to reduce the hazard from fire by regulating the location and use of buildings and the area of open space around them, all as authorized by, but not limited to, the provisions of the Zoning Act, G.L. c. 40A, as amended, Section 2A of 1975 Mass. Acts 808, and by Article 89 of the Amendments to the Constitution of the Commonwealth of Massachusetts.

### **1.2 APPLICABILITY**

All buildings or structures hereinafter erected, reconstructed, altered, enlarged or moved, and the use of all premises in the City of Holyoke 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. In accordance with the G.L. c. 40A, and notwithstanding any provision to the contrary, this ordinance shall not prohibit, regulate, or restrict the use of land or structures for religious or municipal 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. Such land or structure shall, however, be subject to all dimensional controls which are a part of this ordinance.

### **1.3 AMENDMENT**

#### **1.3.1 General.**

This ordinance may be amended in accordance with the provisions of G.L. c. 40A, s. 5. Petitions for amendments shall be made in writing on appropriate forms furnished by the City Clerk, and shall, when applicable, be accompanied by a map showing the locus, the premises in question, all abutting premises and other premises within 300 feet of the perimeter of the premises in question, adjacent and nearby streets and ways, and the existing zoning of the locus. The cost of publication of notices of public hearings required by G.L. c. 40A, s. 5 shall be borne by the petitioner. The fee for such notice shall be \$100.00. The City Council, Planning Board, Board of Appeals, and Pioneer Valley Planning Commission shall be exempt from such fees.

#### **1.3.2 Map.**

The Planning Board shall maintain the official zoning map, which is a part of this ordinance, and shall post thereon all amendments adopted by the City Council. Copies of the official zoning map shall be furnished by the City Clerk, the administrative assistant to the City Council, the Building Commissioner, the Board of Appeals, and other agencies as may be required. A copy of the map shall be available for public view in the Planning Board office. Notice of a change in the map shall be in a form drafted by the City Clerk, and he shall furnish a copy thereof to be sent by mail, postage prepaid, to the owners of interest in land in the rear of, on either side of, and directly across the street from the property affected by such proposed change, at least seven (7) days before the time fixed for such hearing.

### **1.4 VALIDITY**

The invalidity of any section or provision of this ordinance shall not invalidate any other section or provision thereof. Where this ordinance imposes greater restrictions upon land and structures than those imposed by other ordinances, codes, regulations, assessments, covenants or agreements, the provisions of this ordinance shall control.

### **1.5 EFFECTIVE DATE**

This ordinance and subsequent amendments thereto shall take effect upon passage.

## SECTION 2.0 DEFINITIONS

In this ordinance, the following terms shall apply unless a different meaning is required by the context or is specifically prescribed in the text of the ordinance. Words used in the present tense include the future. The singular includes the plural and the plural includes the singular. The word "shall" is mandatory and "may" is permissive or discretionary. The word "and" includes "or" unless the contrary is evident from the text. The word "includes" or "including" shall not limit a term to specified examples, but is intended to extend its meaning to all other instances, circumstances, or items of like character or kind. The word "lot" includes "plot"; the word "used" or "occupied" shall be considered as though followed by the words "or intended, arranged, or designed to be used or occupied". The words "building," "structure," "lot," or "parcel," shall be construed as being followed by the words "or any portion thereof." The word "person" includes a firm, association, organization, partnership, company, or corporation, as well as an individual. Terms and words not defined herein but defined in the Commonwealth of Massachusetts state building code shall have the meaning given therein unless a contrary intention is clearly evident in this ordinance.

**ATM:** A device whether attached to a structure or free standing, for the dispensing of money and the conduct of financial transactions. ATMs located within a building shall be considered accessory to the principal use unless the ATM is likely to be an independent traffic generator.

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

**Adult bookstore:** An establishment having as a substantial or significant portion of its stock in trade books, magazines, and other matters which are distinguished as characterized by their emphasis depicting, describing, or relating to sexual conduct or sexual excitement as defined in G.L. c. 272, s. 31 which excludes minors by virtue of age.

**Adult dance club:** An establishment which, as its principal form of entertainment, permits a person or persons to perform in a state of nudity as defined in G.L. c. 272, s. 31.

**Adult theater:** An enclosed building used for presenting material distinguished by an emphasis on matter depicting, describing, or relating to sexual conduct or sexual excitement as defined in G.L. c. 272, s. 31 and which excludes minors by virtue of age.

**Adult video store:** An establishment having as a substantial or significant portion of its stock in videos, and other matter which are distinguished or characterized by their emphasis depicting, describing, or relating to sexual conduct or sexual excitement as defined in G.L. c. 272, s. 31 and which excludes minors by virtue of age.

**Adverse impact:** Any deleterious effect on waters or wetlands, including their quality, quantity, surface area, species composition, aesthetics or usefulness for human or natural uses, or effects which are or may potentially be harmful or injurious to human health, welfare, safety or property, to biological productivity, diversity, or stability or which unreasonably interfere with the enjoyment of life or property, including outdoor recreation.

**Advertising blimp:** An inflatable sign that by way of gas or other manner is caused to float above the structure to which it is attached. Further, such inflatable sign is capable of moving from place to place and is not permanently affixed to the ground or structure.

**Agricultural use, nonexempt:** Agricultural use of property not exempted by G.L. c. 40A, s. 3. No such use shall be located on a lot with less than five acres in area unless it is located in an RA district. In RA districts, the normal lot dimensions shall apply. No such use shall be located within 200 feet of any property line, other than a residential property in an RA district.

**Alterations:** As applied to a building or structure, a change or rearrangement in the structural parts or in the existing facilities, or an enlargement whether by extending on a side or by increasing in height, or the moving from one (1) location or position to another.

**Alternative tower structure:** Man-made trees, clock facilities, bell steeples, light poles and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or wireless telecommunications facilities.

**Animal clinic or hospital:** A place where animals or pets are given medical or surgical treatment and the boarding of animals is limited to short term care incidental to the clinic or hospital use.

**Antenna:** Any exterior transmitting or receiving device mounted on a wireless telecommunications facility, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals. This definition includes repeaters as defined herein.

**Aquifer:** Geologic formation composed of rock, sand, or gravel that contains significant amounts of potentially recoverable water.

**Assisted living community:** A structure or structures used for the multifamily residence of persons that:

- (i) Provides room and board; and
- (ii) Provides, directly by employees of the entity or through arrangements with another organization which the entity may or may not control or own, assistance with activities of daily living (defined as physical support, aid or assistance with bathing, dressing/grooming, ambulation, eating, toileting, or other similar tasks) for three or more adult residents not related by consanguinity or affinity to their care provider; and
- (iii) Collects payments or third party reimbursement from or on behalf of residents to pay for the provision of assistance with the activities of daily living or arranges for the same, or as otherwise defined in G.L. c. 19D, s. 1, as amended from time to time.

**Attic:** The space between the ceiling beams of the top story and the roof rafters.

**Backhaul network:** The lines that connect a provider's wireless telecommunications facility and antenna/cell sites to one or more cellular telephone switching offices, and/or long distance providers, or the public switched telephone network.

**Base flood level:** The water surface evaluation of the base flood (100-year flood), that is, the flood level that has a one percent chance of being equaled or exceeded in any given year.

**Bed and breakfast:** A residence serving breakfasts and renting not more than three bedrooms unless the residence is listed on the city's historic inventory in which case the owner/occupant may, on approval of the City Council, rent not more than eight bedrooms for said purpose, and further provided that no such rental shall exceed fourteen (14) consecutive days.

**Best Management Practices (BMP):** Either structural devices that temporarily store or treat urban stormwater runoff to reduce flooding, remove pollutants, and provide other amenities, or non-structural practices that reduce pollutants at their source.

**Billboard:** see Sign, off-premises.

**Boarder:** An individual, other than a member of the family occupying the dwelling unit, who occupies a rooming unit, for living and sleeping but not for cooking and eating purposes, and paying rent, which may include an allowance for meals, by prearrangement for a week or more at a time to an owner or operator to whom he/she is not related by blood, marriage or adoption.

**Boarding house:** A dwelling or part thereof or structure in which lodging is provided by the owner or operator to four (4) or more boarders.

**Building:** An independent structure having a roof supported by columns or walls, resting on its own foundations and designed for the shelter, housing or enclosure of persons, animals, or property of any kind.

**Building, accessory:** A subordinate building located on the same lot as the main, or principal building or principal use, the use of which is customarily incidental to that of the principal building or use of the land.

**Building height:** Building height shall be measured in accordance with the regulations set forth in the state building code. Not included are spires, cupolas, antennae, or similar parts of structures which do not enclose potentially habitable floor space.

**Building, principal:** That building or group of buildings in which the main or primary use of the premises occurs.

**Bulk fuel storage or distribution facility:** Where large quantities of fuel, coal, oil, etc are received and/or stored for delivery to the ultimate customer at remote location.

**Canopy:** A rooflike cover, including an awing, that projects from the wall of a building over a door, entrance or window; or a freestanding or projecting cover above an outdoor service area, such as at a gasoline service station. In the case of a service station, the canopy shall be considered as an accessory structure.

**Catch basin:** A storm water inlet normally 4 feet in diameter with a two (2') foot minimum sump.

**Cellar:** That portion of a building which is partly or completely below grade and having at least one-half (1/2) its height below grade.

**Child care facility:** A child care facility as defined in G.L. c. 28A, s. 9.

**Commercial fertilizers:** Any substance containing one or more recognized plant nutrients which is used for its plant nutrient content and which is designed for use, or claimed to have value in promoting plant growth, except unmanipulated animal and vegetable manures, marl, lime, limestone, wood ashes, and gypsum, as defined in G.L. c. 128, s. 64.

**Commercial recreation, indoors:** A structure for recreational, social or amusement purposes, which may include as an accessory use the consumption of food and drink, including all connected rooms or space with a common means of egress and entrance. Places of assembly shall include theaters, concert halls, dance halls, skating rinks, bowling alleys, health clubs, dance studios, or other commercial recreational centers conducted for or not for profit, but excluding arcades for pinball and video games.

**Commercial recreation, outdoors:** Drive-in theater, golf course/driving range, ski area, bathing beach, sports club, horseback riding stable, boathouse, game preserve, marina, archery, pitch and putt, miniature golf or other commercial recreation carried on in whole or in part outdoors, except those activities more specifically designated in this ordinance.

**Condominium:** A multiple dwelling or development containing individually owned dwelling units and jointly owned and shared areas and facilities.

**Continuing care retirement community:** A structure or structures used for the housing of persons that furnishes to an individual board and lodging together with nursing services, medical services or other health-related services, regardless of whether or not the lodging and services are provided at the same location, pursuant to a contract effective for the life of the individual or for a period in excess of one year or as otherwise defined in G.L. c. 93, s. 76, as amended from time to time.

**Convenience store:** A store that sells convenience food items and other products, and that is usually open fifteen (15) to sixteen (16) hours per day.

**Cultural services:** A library, museum, or similar public or quasi-public use displaying, preserving, and exhibiting objects of community and cultural interest in one or more of the arts or sciences.

**De-icing chemicals:** Sodium chloride, chemically treated abrasives, or other chemicals used for snow and ice removal.

**Design storm:** A rainfall event of specified size and return frequency (e.g., a five (5) year design storm is a storm that has the probability of occurring once every five (5) years) that is used to calculate the runoff volume and peak discharge rate.

**Detention:** The temporary storage of stormwater runoff which is used to control the peak discharge rates and provide gravitational settling of pollutants.

**Drainage area:** An area contributing runoff to a single point measured in a horizontal plane, which is enclosed by a ridge line.

**Dwelling:** A building or portion thereof designed exclusively for residential occupancy, including single-family, two-family or multifamily dwellings (apartments), but not including hotels, motels, boardinghouses, trailers or structures primarily for transient or overnight occupancy.

**Dwelling, multifamily:** A building designed for or occupied exclusively by four (4) 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 (includes condominiums, apartments, townhouses, or row houses and tenement houses).

**Dwelling unit:** One or more rooms providing complete living facilities for one family including equipment for cooking, or provisions for the same, and including room or rooms, for living, sleeping and eating.

**Earth removal:** The removal, extraction, or relocation of geologic materials such as topsoil, sand, gravel, metallic ores, rock, or other earth for sale or for use at a site removed from the place of extraction exclusive of the grading of a lot preparatory to the construction of a building for which a building permit has been issued, or the grading of streets in accordance with an approved definitive plan, and exclusive of granite operations.

**Easement:** A grant or reservation by the owner of land for the use of such land by others for a specific purpose or purposes, and which must be included in the conveyance of land affected by such easement.

**Educational use, nonexempt:** Educational facilities not exempted from regulation by G.L. c. 40A, s. 3.

**Electric generating plant:** A plant in which the prime mover is an internal combustion engine with one or more cylinders in which the process of combustion takes place, converting energy released from the rapid turning of a fuel-air mixture into mechanical energy. The fuel is principally diesel or gas.

**Erect:** To build, construct, reconstruct, move upon, or conduct any physical development of the premises required for a building; to excavate, fill, drain, and the like preparation for building shall also be considered to erect.

**Essential services:** Services provided by a public service corporation or by governmental agencies through erection, construction, alteration, or maintenance of gas, electrical, steam, or water transmission or distribution systems and collection, communication, supply, or disposal systems whether underground or overhead, but not including wireless communications facilities. Facilities necessary for the provision of essential services include poles, wires, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants and other similar equipment in connection therewith.

**Family:** Any number of individuals living and cooking together on the premises as a single housekeeping unit.

**FAA:** The Federal Aviation Administration.

**FCC:** The Federal Communications Commission.

**Family day care home:** An accessory use as defined in G.L. c. 28A, s. 9.

**Farm stand, nonexempt:** Facility for the sale of produce, wine and dairy products on property not exempted by G.L. c. 40A, s. 3.

**Fence:** A barrier constructed of materials other than living plant materials erected for the purpose of safety, protection, confinement, enclosure, privacy, or as a landscaping or aesthetic element.

**Flea market:** A building or open area in which stalls or sales areas are set aside, and rented or otherwise provided, and which are intended for use by various unrelated individuals to sell articles that are either homemade, homegrown, handcrafted, old, obsolete, or antique and may include selling goods at retail by businesses or individuals who are generally engaged in retail trade. Flea markets are conventional, permanent profit seeking businesses that require all local permits and licenses.

**Floor area:** The total square feet of floor space within the outside dimensions of a building including each floor level.

**Floor area ratio:** A mathematical expression determined by dividing total floor area of a building by the area of the lot on which it is located. For example, a one acre lot with a FAR of .75 would contain 32,670 square feet of floor area ( $43,560 \times .75 = 32,670$ )

**Flow attenuation:** Prolonging the flow time (lagging) of runoff to reduce the peak discharge.

**Funeral home:** Facility for the conducting of funerals and related activities such as embalming.

**Gross floor area:** The sum of the area of the several floors of a building as measured from the outside walls of the building, without deduction for hallways, stairs, closets, thickness of walls, columns or other features. It does not include cellars, unenclosed porches or attics not used for human occupancy, or any floor space in accessory buildings or the main building intended and designed for the parking of motor vehicles in order to meet the parking requirements of this Ordinance.

**Hazardous Material:** Any substance or mixture of physical, chemical, or infectious characteristics posing a significant, actual or potential hazard to water supplies or other hazards to human health if such substance or mixture were discharged to land or water. Hazardous materials include, without limitation, synthetic organic chemicals, petroleum products, heavy metals, radioactive or infectious wastes, acids and alkalis, and all substances defined as toxic or hazardous under G.L. c. 21C and 21E and 310 CMR 30.00, and also include such products as solvents and thinners in quantities greater than normal household use.

**Hazardous waste:** A waste which is hazardous to human health or the environment and has been designated by the Regulations in 310 CMR 30.130 adopted pursuant to the Massachusetts Hazardous Waste Management Act, G.L. c. 21C.

**Home occupation:** A business use customarily conducted entirely within a dwelling carried on by the inhabitants thereof, which is clearly incidental to the use of the dwelling as a place of residence. A professional home occupation is a professional office, as defined herein, located and operated as described above.

**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:** Material or structure on, above, or below the ground that does not allow precipitation to penetrate directly into the soil.

**Independent living retirement community:** A structure or structures of dwelling units used for the multifamily residence of persons age fifty-five (55) or older, with common facilities and services.

**Infiltration:** The downward movement of water from the surface to subsurface soils.

**Infiltration trench:** A stormwater management practice filled with aggregate which removes both soluble and particulate pollutants. Trenches are not intended to trap coarse sediments.

**Junk:** Any article or material or collection thereof which is worn out, cast off or discarded and which is ready for destruction or has been collected or stored for salvage or conversion. Any article or material which, unaltered or unchanged and without further reconditioning can not be used for its original purpose as readily as when new shall be considered junk.

**kennel:** Premises used for the harboring and/or care of more than three (3) dogs or other domestic, nonfarm animals (three (3) months old or over). Use shall be so classified regardless of the purpose for which the animals are maintained, whether fees are charged or not, and whether the use is a principal or accessory one.

**Landfills and open dumps:** A facility or part of a facility for solid waste disposal (excluding transfer facilities) established in accordance with the provisions of 310 CMR 19.006.

**Landscaped Open Space:** The area of the lot that is planted with vegetation (i.e. grass or live ground cover, shrubs, trees), or on which existing vegetation will be left undisturbed. Landscaped Open Space shall not include rocks, stones, pavers, etc.

**Live/work space:** A place where a resident may, in combination with nonresidents, engage in production, performance, display, sales, service and other activities related to the permissible uses set forth in the Arts and Industry Overlay District, Section 8.7 herein.

**Loading space, off-street:** Space located on the same lot with a main building, or contiguous to a group of buildings, for bulk pickups and deliveries, scaled to delivery vehicles expected to be Used, and accessible to such vehicles when required off-street parking spaces are filed. Such space shall abut a street, alley, or other appropriate means of ingress or egress.

**Lot:** A single area of land in one ownership defined by metes and bounds or boundary lines in a recorded deed or on a recorded plan. (Corner lot, through lot, interior lot - See diagram below.) The calculation of minimum lot size shall not include more than five percent of any water area including wetlands as defined in the Wetland Protection Act, G.L. c. 131, s. 40.

**Lot area:** The horizontal area of the lot exclusive of any area in a street or recorded way open to public use. At least eighty (80) percent of the lot area required for zoning compliance shall be contiguous land other than that under any water body, bog, swamp, wet meadow, marsh, or other wetland, as defined in G.L. c. 131, s. 40, as amended.

**Lot, corner:** A lot with two (2) adjacent sides abutting upon streets or other public spaces.

**Lot, depth of:** The mean distance from the street line of the lot to its opposite rear line measured in the general direction of the side lines of the lot.

**Lot, frontage:** The straight line distance between either the points of intersection of the side lot lines and the street right-of-way line or the points of intersection of the side lot lines and the rear line of the required front yard (see diagram under "yard").

**Lot line:** A line dividing one lot from another, or from a street or any public place.

**Lot, width of:** The horizontal distance between side lot lines, measured parallel to the lot frontage at the front yard setback line.

**Manufacturing:** A use engaged in the basic processing and manufacturing of materials, or the manufacture from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales and distribution of such products.

**Medical clinic:** A building used for the diagnosis, evaluation, testing and treatment of human patients with physical and mental ailments by physicians and other medical professionals where overnight care is not allowed except under emergency conditions.

**Membership clubs, civic, social, professional or fraternal organizations:** Buildings, structures and premises used by a nonprofit social or civic organization, or by a nonprofit organization catering exclusively to members and their guests for social, civic, recreational, or athletic purposes which are not conducted primarily for gain and provided there are no vending stands, merchandising, or commercial activities except as may be required generally for the membership and purposes of such organization. Retail sales shall be permitted only for members and guests of the club or organization; and there shall be no external evidence, however incidental, nor any access, except for service to any such space other than from within the building. In the case of such clubs and organizations having outdoor recreational facilities, the provisions governing such uses shall apply.

**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 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.

**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 (includes motor hotels and motor inns).

**Motor vehicle:** Any vehicle propelled by power other than muscular power, including such vehicles when pulled or towed by another, and which is required to be registered with the Commonwealth of Massachusetts in order to be lawfully operated or which requires a permit or license in order to be lawfully operated upon a public way or watercourse.

**Motor vehicle body repair or paint shop:** shall mean a painting or body repair facility which is licensed in accordance with Section 12-131 of the City of Holyoke Code of Ordinances. An establishment, garage or work area enclosed within a building where repairs are made or caused to be made to motor vehicles, including fenders, bumpers and similar components of motor vehicle bodies, painting, but not including the storage vehicles for the cannibalization of parts or fuel sales.

**Motor vehicle graveyard and junkyard:** An establishment or place of business which is used, maintained, or operated for storing, keeping, buying, or selling wrecked, scrapped, ruined, or dismantled motor vehicles or motor vehicle parts, as defined in G.L. c. 140B, s. 1.

**Motor vehicle repair garage:** An establishment, other than an auto body or paint shop, which is licensed in accordance with Section 22-131 of the City of Holyoke Code of Ordinances, and which provides services such as the installation and repair of automotive accessories such as radios, burglar alarms, and other electronic devices, engine tune-ups, oil changes, and other similar products, providing that all servicing be carried out inside a building.

**Motor vehicle service station:** A filling station with gasoline pumps, where no major repairs are made. Services may include such uses as engine tune-ups, oil changes and other similar activities, provided that all repairs are carried out inside the building.

**Motor vehicle service station with fast food and/or convenience goods:** An automotive service station as defined above, including the sale of convenience items or fast food as those terms are defined in this ordinance.

**Municipal facilities:** Facilities owned or operated by the City of Holyoke.

**Nonconforming use:** A use that was valid when brought into existence, but by subsequent regulation becomes no longer conforming. This may be a structure, use, or parcel of land.

**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 and/or lodging of three or more unrelated persons who require or receive assistance in ordinary daily activities of life, or who are confined to bed or chair. (This term includes boarding and rooming houses for aged people, convalescent homes, rest homes, homes for the aged or infirm, convalescent homes for children, and the like; but does not include hospitals, clinics and similar institutions devoted primarily to the diagnosis and treatment of disease or injury, maternity cases or mental illness.)

**Office, business or professional:** A building or part thereof, for the transaction of business or the provision of services exclusive of the receipt, sale, storage, or processing of merchandise.

**Office, campaign:** A business or professional office or office building used by a person or persons seeking nomination or election to public office or by any person, group or committee promoting or opposing any question or questions which will or may appear on a ballot at a local or state election.



**Office, professional:** The office of one engaged in one of the following professions: physician, dentist, veterinarian, attorney at law, engineer, architect, landscape architect, design studio, accountant, real estate or insurance.

**Office, veterinarian:** The use for medical ambulatory needs of animals, such as examinations, shots, minor surgery and tests. No boarding of animals may take place in a veterinarian office, except in cases of medical emergency. This use must meet all requirements of Office Uses.

**Office building, medical:** A building used for professional offices for medical, surgical, dental, physical rehabilitation, mental health, and other health care providers, related support services, pharmacies, and laboratories, and usual and customary accessory facilities thereto.

**Outdoor Golf Driving Range:** An outdoor area open to the public for a fee for the practice of driving golf balls.

**Outfall:** The terminus of a storm drain or other stormwater structure where stormwater is discharged.

**Peak discharge:** The maximum instantaneous rate of flow during a storm, usually in reference to a specific design storm.

**Permeable soils:** Soil materials with a sufficiently rapid infiltration rate so as to greatly reduce or eliminate surface and stormwater runoff. These soils are generally classified as Natural Resource Conservation Service hydrologic soil types A and B.

**Person:** Any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, administrative agency, public or quasi-public corporation or body, the commonwealth or political subdivision thereof.

**Planned unit development (PUD):** A development, to be planned, built, owned and operated as a unit, having a mixture of housing types and supporting facilities which are regulated on a project basis rather than on an individual use basis.

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

**Recharge Areas:** Areas that collect precipitation or surface water and carry it to aquifers.

**Refuse Transfer Station:** a handling facility where solid waste is brought, stored, and transferred from one vehicle or container to another vehicle or container for transport off-site to a solid waste treatment, processing or disposal facility.

**Repeater:** A low power mobile or permanently affixed radio service telecommunications facility that extends coverage of a cell or antenna to areas not covered by the originating cell.

**Residential care or rehabilitation center:** Any place or institution primarily engaged in providing residential social, residential personal, residential rehabilitative care for a group of five or more unrelated individuals such as children, criminal offenders, and any other group of persons having some limitation on the ability for self-care but where medical care is not a major element. Such a place or institution shall include but not be limited to a group foster home, a halfway group home for persons with social or personal problems, a halfway group home for delinquents and offenders, a group home for destitute men and women, a group home for the retarded where health care is of secondary or lesser importance, a group home for the emotionally disturbed where health care is of secondary or lesser importance, or a juvenile correction group home. The foregoing definition is subject to any and all limitations imposed by G.L. c. 40A, s. 3.

**Restaurant:** A building, or portion thereof, containing tables and/or booths for at least two-thirds (2/3) of its legal capacity, which is designed, intended and used for the indoor sales and consumption of food prepared on the premises, except that food may be consumed outdoors in landscaped terraces, designed for dining purposes, which are adjuncts to the main indoor restaurant facility. The term "restaurant" shall not include "fast food establishments."

**Restaurant, drive-in or take-out:** Premises and buildings for the sale, dispensing, or serving of food, refreshments, or beverages: for consumption in vehicles temporarily parked on the premises, or at tables, benches, counters and the like the majority of which are out-of-doors; or for consumption off the premises.

**Restaurant, fast food:** An establishment that offers quick food service, which is accomplished through a limited menu of items already prepared and held for service, or prepared, fried, or griddled quickly, or heated in a device such as a microwave oven. Food is generally served in disposable wrapping or containers.

**Retail sales establishment:** A commercial enterprise that provides goods and/or services directly to the consumer, where such goods are available for immediate purchase and removal from the premises by the purchaser.

**Retention:** The holding of runoff in a basin without release except by means of evaporation, infiltration, or emergency bypass.

**Salvage yard:** Property where motor vehicles are junked, dismantled, or stored for later dismantling or distribution.

**Sanitary Wastewater:** Any water-carried putrescible waste resulting from the discharge of water closets, laundry tubs, washing machines, sinks, showers, dishwashers, or any other source.

**Setback:** The minimum distance between a street line and the front building line of a principal building or structure, projected to the side lines of the lot. Where a lot abuts more than one street, front yard setbacks shall apply from all streets.

**Sign:** Any device designed to inform or attract the attention of persons not on the premises on which the device is located. Any building surfaces other than windows which are internally illuminated or decorated with gaseous tube or other lights are considered "signs."

**Sign, off premises:** A sign that directs attention to a business, commodity, service, or entertainment not exclusively related to the premises where such sign is located or to which it is affixed; including billboards.

**Sign, political:** A sign used to attract the public to any person or persons seeking nomination or election to public office or used to promote or oppose any question or questions which will or may appear on a ballot at a local, state, or federal election.

**Sign Display Area:** The total surface area of a sign shall be considered to include all lettering, wording, and accompanying design, symbols, together with the background on which they are displayed, any frame around the sign and any cutouts or extensions, but shall not include any supporting structure or bracing.

1. In the case of wall-mounted channel letter sign, the display area shall be determined by drawing a box around the extent of the lettering and any other design features.
2. In the case of computing the area of back-to-back signs, only one side of such signs shall be included.

**Site Plan:** A plan view of the proposed development of a lot or lots of land showing buildings, landscape treatment, and other features required to indicate the arrangement and operation of the proposed development.

**Soil conditioner:** Any manipulated substance or mixture of substances whose primary function is to modify the physical structure of soils so as to favorably influence plant growth, except unmanipulated animal and vegetable manures, marl, lime, limestone, wood ashes, and gypsum, as defined in G.L. c. 128, s. 64.

**Special permit use, allowed use, exemption:** A use prohibited generally throughout the district, but which may be allowed in specific instances by a special permit issued by the City Council. The instances in which such a special permit may be issued are set forth in Section 4.3, and the conditions which must be fulfilled before it can issue are enumerated in Section 7.2.

**Split-Zone Parcel (Lot):** a parcel of land that contains more than one classification of zoning district. Also known as a Partial Zone Parcel (Lot).

**Steam generating plant:** A power station in which steam is used to turn the turbines that generate electricity. The heat used to make the steam may come from burning fossil fuel, using a controlled nuclear reaction, concentrating the sun's energy, tapping the earth's natural heat, or capturing industrial waste heat. A water supply is needed for cooling purposes and for the boiler.

**Storage or landfilling of sludge and septage:** Use of land to store sludge or septage as those terms are defined in 310 CMR 32.00.

**Story:** That portion of a building between the upper surface of a floor and upper surface of the floor or roof next above. A story shall not include an attic, cellar or mezzanine.

**Street:** A public way established by or maintained under public authority or shown on an endorsed subdivision plan.

**Structure:** Anything erected at a fixed location on the ground to give support, provide shelter, or satisfy other purposes (includes the term "building").

**Substantial improvement:** Any repair, reconstruction or improvement to a structure, the cost of which equals or exceeds fifty (50%) percent of the market value of the structure either, (a) before the repair or improvement is started, or (b) if the structure has been damaged and is being restored, before the damage occurred. The term does not, however, include any project for improvement to a structure to comply with the state sanitary code specifications which are solely necessary for safe living conditions.

**Swale:** A natural depression or wide shallow ditch used to temporarily store, route, or filter runoff.

**Swimming pool:** A private or public facility, located above or below surrounding grade, exceeding a hundred (100) square feet of surface area, confining a filled or flooded body of water deeper than eighteen (18") inches, as measured from the lowest point in the pool a vertical distance to the grade level or top of the pool; used for swimming, diving and various water sports.

**Tag sales:** Informal sales held by occupants of private households or sales sponsored and organized by nonprofit organizations. Tag sales must take place on the premises of the dwelling or organization and are usually held for a few days, one to three times a year.

**Telecommunications facility height:** When referring to a wireless telecommunications facility, the distance measured from the finished grade of the parcel to the highest point on the wireless telecommunications facility and antenna or other structure, including the base pad and any antenna.

**Telecommunication, monitoring of facility:** The measurement, by the use of instruments in the field, of the radiation from a site as a whole, or from individual wireless telecommunications facilities, towers, antennas or repeaters.

**Telecommunications facilities, pre-existing wireless and pre-existing antennas:** Any wireless telecommunications facility or antenna for which a building permit or special permit has been properly issued prior to June 17, 1997, including permitted wireless telecommunications facilities or antennas that have not yet been constructed, so long as such approval is current and not expired.

**Temporary Storage Unit:** A portable, weather-resistant storage container constructed of steel or similar metal that is designed and used primarily for temporary storage of building materials prior to the use, goods or other inanimate materials and objects. This term shall not include open/unclosed roll-off waste and debris containers.

**Townhouse:** A building containing more than two dwelling units separated by common walls, each unit containing two or more stories.

**Trailer:** A vehicle without motive power designed to be drawn by a motor vehicle, used for hauling or living purposes and standing on wheels or rigid supports. (Does not include "mobile home.")

**Transport terminal:** Terminal facilities for handling freight with or without maintenance facilities.

**TR-20:** Technical Release 20, "Computer Program for Project Formulation Hydrology," is a watershed hydrology model developed by the Natural Resource Conservation Service that is used to route a design storm hydrograph through a pond.

**TR-55:** Technical Release 55, "Urban Hydrology for Small Watersheds", is a hydrologic model developed by the Natural Resource Conservation Service to calculate stormwater runoff and to aid in designing detention basins.

**Warehouse:** A building used primarily for the storage of goods and materials, for distribution, but not for sale on the premises, including the storage of data and digital information.

**Waste:** Waste means any discarded material, or any material otherwise generated or produced as a byproduct of any activity which is not intended for further use by the generator or producer.

**Waste Disposal Facility:** Such facilities shall unclad, but are not limited to, resource recovery facilities as defined in G.L. c. 17, s. 18, incinerators, and wastewater treatment plants, but specifically exclude landfills and hazardous waste treatment or disposal facilities and refuse transfer stations as defined herein.

**Wastewater treatment works:** Any and all devices, processes and properties, real or personal, used in the collection, pumping, transmission, storage, treatment, disposal, recycling, reclamation, or reuse of waterborne pollutants, but not including any works receiving a hazardous waste from off the site of the works for the purpose of treatment, storage or disposal, all as defined and regulated by 314 CMR 5.00.

**Water Resource Protection Overlay District I (WRPOD I)** - The protective radius required around a public water supply well or wellfield, as set forth in 310 CMR 22.02's definition of "Zone I."

**Water Resource Protection Overlay District II (WRPOD II)** - WRPOD II is bounded by the most extensive of the following parameters: (a) that area of the aquifer that contributes water to a public water supply well or wellfield under the most severe pumping and recharge conditions than can realistically be anticipated, as set forth in 310 CMR 22.02's definition of "Zone II;" (b) Interim

wellhead Protection Areas, as established in the city and defined by 310 CMR 22.02; and the surrounding high and medium yield aquifers within the city having a transmissivity of 1,350-4,000 ft<sup>2</sup>/d (potential well yield 100 to 300 gal/min).

**Water Resource Protection Overlay District III (WRPOD III)** - That area of land beyond the area of WRPD II from which surface water and groundwater drain into Zone II, as that term is defined in 310 CMR 22.02.

**Watershed:** Lands lying adjacent to watercourses and surface water bodies which create the catchment or drainage areas of such watercourses and bodies.

**Wireless telecommunications facility:** Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas for telephone, radio and similar communication purposes, including self-supporting lattice towers, guyed towers, or monopole towers. The term includes cellular telephone towers, repeaters, alternative tower structures, and the like. The term includes the structure and any support thereto.

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

**Yard, front:** A yard extending the full width of the lot and situated between the street line and the nearest point of the building.

**Yard, rear:** A yard the full width of the lot and situated between the rear line of the lot and the nearest part of the main building projected to the side line of the lot.

**Yard, side:** A yard situated between the nearest point of the buildings and the side line of the lot and extending from the front yard to the rear yard. Any lot line not a rear line or a front line shall be deemed a side line.

## **SECTION 3.0 ESTABLISHMENT AND LOCATION OF DISTRICTS**

### **3.1 CLASSES OF DISTRICTS**

For the purposes of this zoning ordinance, the City of Holyoke is hereby divided into the following districts:

<u>District</u>	<u>Purpose</u>
RA	Agriculture and single family residence
R1	Single family residence
R-1A	Single family residence
R-2	Two-family residence
RM-LD	Low Density multifamily residence
RM-20	Multifamily residence (20 units/acre)
RM-40	Multifamily residence (40 units/acre)
RM-60	Multifamily residence (60 units/acre)
DR	Downtown Residential District
RO	Multifamily residence and professional offices
BC	Downtown business
BE	Entryway Business District
BG	General business
BH	Highway (vehicle-oriented) business
BL	Limited (neighborhood) business
IG	General Industry
IP	Industrial park
OP	Office park
SC	Shopping Center

There are also hereby established the following overlay districts:

FOD	Floodplain Overlay District
WRPOD	Water Resource Protection Overlay District
AIOD	Arts and Industry Overlay District
POOD	Professional Office Overlay District
SGZD	Smart Growth Zoning Overlay District

### **3.2 LOCATION OF DISTRICTS**

The above-referenced districts are located and bounded as shown on a map entitled "Zoning Map of Holyoke, Massachusetts," dated February 19, 2002, and on file in the offices of the City Clerk and the Planning Board. The zoning map, with all explanatory matter thereon, is hereby made a part of this ordinance.

### **3.3 BOUNDARY DISPUTES**

Where in doubt or dispute, the delineation of districts on the zoning map shall be governed by the following rules of construction

1. Where a boundary is shown as following a street, railroad, or utility, the boundary shall be deemed to be the centerline thereof unless otherwise indicated.
2. Where a boundary is shown following a watercourse, the boundary shall coincide with the centerline thereof as said line existed at the date of the zoning map.
3. Where a boundary is shown approximately parallel to a street, railroad, or utility, the boundary shall be deemed parallel to the centerline thereof at the distance, in feet, indicated by the figure appearing between the boundary and the centerline.
4. Where not otherwise indicated as above, a district boundary shall be deemed to coincide with a property line, as such line existed at the time the ordinance or amendment thereto was adopted.
5. Where a district boundary line divides a lot, the regulations applying to the portion of such lot in the less restricted district may be considered as extending not more than fifty (50') feet into the more restricted portion, but only if the lot has frontage on a street in the less restricted district.
6. Where the location of a boundary line is uncertain, the building commissioner shall determine its position in accordance with the distance in feet from other lines as given or as measured from the scale of the map.

## **SECTION 4.0 USE REGULATIONS**

### **4.1 GENERAL**

No structure shall be erected or used, or land used, except as set forth in this ordinance, unless exempted by this ordinance or by statute. Uses not expressly provided for herein are prohibited. Not more than one principal structure shall be placed on a lot, except in accordance with Section 5.4.

### **4.2 APPLICABILITY**

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

### 4.3. TABLE OF PRINCIPAL USES

Symbols employed below shall mean the following:

Y - A permitted use.

N - An excluded or prohibited use.

CC - A use authorized under special permit from the City Council as provided under Section 9.3.

PB - A use authorized under special permit from the Planning Board as provided under Section 9.3.

BA - A use authorized under special permit from the Board of Appeals as provided under Section 9.3.

### D I S T R I C T S

PRINCIPAL USE	RA	R1	R1A	R2	RMLD	RM20	RM40	RM60	RO	DR	BL	BC	BG	BH	BE	IG	WM	IP	OP	SC
<b>A. Residential Uses</b>																				
1. Single-family dwelling	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N	N	N	N	N
2. Two-Family dwelling	N	N	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N	N	N	N	N
3. Multifamily dwelling	N	N	N	N	PB	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	CC	N	N	N	CC
4. Boarding house (more than 4 boarders)	N	N	N	N	N	CC	CC	CC	CC	CC	CC	CC	CC	CC	N	N	N	N	N	N
5. Mobile home park	CC	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
6. Planned unit development	CC	CC	CC	CC	N	CC	N	N	N	CC	N	N	N	N	N	N	N	N	N	N
7. Independent Living, Retirement, and Assisted Living	CC	N	N	CC	CC	CC	CC	CC	CC	CC	CC	CC	CC	CC	CC	N	N	N	N	N
8. Residential care or rehabilitation center	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	N	N	N	N	Y	N	N	N	N	N
9. Dwelling unit on second story	N	N	N	N	N	N	N	N	N	Y	N	Y	N	N	Y	N	N	N	N	N
10. Conversion to dwellings	N	N	N	Y	N	Y	Y	Y	Y	CC	N	N	N	N	CC	N	N	N	N	N
<b>B. Exempt &amp; Institutional Uses</b>																				
1. Use of land or structures for religious purposes	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
2. Use of land or structures 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	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
3. Cultural services	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
4. Family day care home	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N

PRINCIPAL USE	RA	R1	R1A	R2	RMLD	RM20	RM40	RM60	RO	DR	BL	BC	BG	BH	BE	IG	WM	IP	OP	SC
5. Child care facility	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
6. Use of land for the primary purpose of agriculture, horticulture, floriculture, or viticulture on a parcel of more than five acres in area	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
7. Facilities for the sale of produce, and wine and dairy products, provided that during the months of June, July, August, and September of every year, or during the harvest season of the primary crop, the majority of such products for sale, based on either gross sales dollars or volume, have been produced by the owner of the land containing more than five acres in area on which the facility is located	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
8. Cemeteries, private	CC	Y	Y	Y	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
9. Municipal facilities	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
10. Essential services	CC	CC	CC	CC	CC	CC	CC	CC	CC	CC	CC	CC	CC	CC	CC	CC	CC	CC	CC	Y
11. Hospital	Y	N	N	Y	N	Y	Y	Y	Y	N	N	N	N	N	N	N	N	N	N	N
<b>C. Commercial Uses</b>																				
1. Nonexempt farm stand for wholesale or retail sale of products	Y	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
2. Nonexempt educational use	N	N	N	N	N	N	N	N	Y	N	Y	Y	Y	Y	CC	Y	N	Y	N	Y
3. Animal clinic or hospital; kennel	Y	N	N	N	N	N	N	N	N	N	N	N	Y	Y	N	Y	N	N	N	Y
4. Veterinary clinic	Y	N	N	N	N	N	N	N	Y	N	Y	Y	Y	Y	N	N	N	N	N	N
5. Nursing or convalescent home	Y	N	N	Y	N	Y	Y	Y	Y	N	N	N	N	N	N	N	N	N	N	N
6. Funeral home	N	N	N	N	N	N	CC	CC	Y	N	Y	Y	Y	Y	Y	N	N	N	N	N
7. Hotel	N	N	N	N	N	N	N	N	N	N	N	Y	Y	Y	N	Y	N	CC	CC	N
8. Motel; overnight cabin	N	N	N	N	N	N	N	N	N	N	N	N	Y	Y	N	Y	N	N	N	N
9. Bed and Breakfast	CC	CC	CC	CC	N	CC	CC	CC	CC	CC	CC	CC	CC	CC	N	N	N	N	N	N
10. Retail stores and services not elsewhere set forth	N	N	N	N	N	N	N	N	N	Y	Y	Y	Y	Y	Y	Y	N	N	N	Y
11. Retail with incidental wholesale, processing, or manufacturing of products, the majority of which are sold on the premises, with less than 10 non-retail employees	N	N	N	N	N	N	N	N	N	N	N	N	Y	Y	CC	Y	N	N	N	N
12. Personal service establishment	N	N	N	N	N	N	N	N	N	Y	Y	Y	Y	Y	Y	Y	N	N	N	N



<b>PRINCIPAL USE</b>	<b>RA</b>	<b>R1</b>	<b>R1A</b>	<b>R2</b>	<b>RMLD</b>	<b>RM20</b>	<b>RM40</b>	<b>RM60</b>	<b>RO</b>	<b>DR</b>	<b>BL</b>	<b>BC</b>	<b>BG</b>	<b>BH</b>	<b>BE</b>	<b>IG</b>	<b>WM</b>	<b>IP</b>	<b>OP</b>	<b>SC</b>	
13. Motor vehicle, trailer, or boat sales and rental	N	N	N	N	N	N	N	N	N	N	N	N	N	CC	CC	CC	N	N	N	N	
14. Motor vehicle-body repair or paint shop	N	N	N	N	N	N	N	N	N	N	N	N	N	CC	CC	CC	N	N	N	N	
15. Motor vehicle service station	N	N	N	N	N	N	N	N	N	N	N	N	CC	CC	CC	CC	N	N	N	CC	
16. Motor vehicle service station w/fast food and/or convenience goods	N	N	N	N	N	N	N	N	N	N	N	N	CC	CC	CC	CC	N	N	N	CC	
17. Motor vehicle repair garage	N	N	N	N	N	N	N	N	N	N	N	N	CC	CC	CC	CC	N	N	N	N	
18. Car wash	N	N	N	N	N	N	N	N	N	N	N	N	N	CC	CC	Y	N	N	N	N	
19. Restaurant	N	N	N	N	N	N	N	N	N	Y	Y	Y	Y	Y	Y	Y	N	N	N	Y	
20. Restaurant, fast-food or drive-in	N	N	N	N	N	N	N	N	N	N	CC	Y	CC	Y	CC	Y	N	N	N	CC	
21. Business or professional office	N	N	N	N	N	N	N	N	N	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	
21A. Bank, retail banking, financial agency or institution	N	N	N	N	N	N	N	N	N	N	Y	Y	Y	Y	Y	Y	Y	Y	CC	Y	N
22. Business or professional office, not exceeding 2,500 sq. ft. of gross ground floor area for every five (5) acres of land area in the subject parcel	N	N	N	N	N	N	N	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	Y
22A. Bank, financial agency or institution not exceeding 2,500 sq. ft. of gross floor area	N	N	N	N	N	N	N	N	Y	Y	Y	Y	Y	Y	Y	Y	N	CC	N	Y	
23. Medical office building or testing laboratory	N	N	N	N	N	N	N	N	N	N	Y	Y	Y	Y	Y	Y	N	Y	N	N	
23A. Medical clinic	N	N	N	N	N	N	N	N	N	N	Y	Y	Y	Y	Y	Y	N	N	N	N	
24. Medical office building or testing laboratory not exceeding 2,500 sq. ft.	N	N	N	N	N	N	N	N	Y	Y	N	N	N	N	Y	N	N	Y	N	N	
24A. Medical clinic not exceeding 2,500 square feet for every five (5) acres of land area in the subject parcel	N	N	N	N	N	N	N	N	Y	Y	N	N	N	N	Y	N	N	N	N	N	
25. Any commercial drive-through use	N	N	N	N	N	N	N	N	N	N	CC	CC	CC	CC	CC	CC	N	N	N	Y	
26. Indoor commercial recreation	N	N	N	N	N	N	N	N	N	Y	N	Y	Y	Y	Y	Y	N	N	N	Y	
27. Arcade	N	N	N	N	N	N	N	N	N	N	N	N	N	Y	CC	Y	N	N	N	N	
28. Outdoor commercial recreation	Y	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	
29. Reserved																					
30. Amusement park	N	N	N	N	N	N	N	N	N	N	N	N	N	Y	N	N	N	N	N	N	
31. Motor car race tracks, Speedways; Horse and dog race tracks and Permanent outdoor concert facilities	CC	N	N	N	N	N	N	N	N	N	N	N	N	CC	N	N	N	N	N	N	
32. Membership club, civic, social, professional or fraternal organization	CC	CC	CC	CC	N	CC	CC	CC	Y	CC	Y	Y	Y	Y	CC	Y	N	N	N	N	
33. Commercial parking lot or garage	N	N	N	N	N	N	N	N	N	N	N	Y	Y	Y	N	Y	N	N	N	N	
34. Adult entertainment establishment	N	N	N	N	N	N	N	N	N	N	N	N	CC	CC	N	CC	CC	N	N	N	

<b>PRINCIPAL USE</b>	<b>RA</b>	<b>R1</b>	<b>R1A</b>	<b>R2</b>	<b>RMLD</b>	<b>RM20</b>	<b>RM40</b>	<b>RM60</b>	<b>RO</b>	<b>DR</b>	<b>BL</b>	<b>BC</b>	<b>BG</b>	<b>BH</b>	<b>BE</b>	<b>IG</b>	<b>WM</b>	<b>IP</b>	<b>OP</b>	<b>SC</b>
35. Wireless Communications Facility	CC	CC	CC	CC	CC	CC	CC	CC	CC	CC	CC	CC	CC	CC	CC	CC	CC	CC	CC	CC
36. Bus, taxi or other public transit terminal facility	N	N	N	N	N	N	N	N	N	N	Y	Y	Y	Y	N	Y	N	N	N	N
37. RMD and OMMD *See Section 7.10	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	CC	N	N	N	N
38. Solar Facility (See 7.9)	CC	CC	CC	CC	CC	CC	CC	CC	CC	CC	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
<b>D. Industrial Uses</b>																				
1. Quarrying or other extractive operation	CC	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
2. Manufacturing	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	Y	Y	Y	N	N
3. Wholesale, warehouse, self-storage mini-warehouse, or distribution facility	N	N	N	N	N	N	N	N	N	N	N	N	N	Y	CC	Y	N	N	N	N
4. Wholesale or warehouse incidental to manufacturing product on the premises	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	Y	N	Y	N	N
5. Transportation freight terminal	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	Y	N	N	N	N
6. Bulk fuel storage or distribution facility	N	N	N	N	N	N	N	N	N	N	N	N	N	CC	N	Y	Y	N	N	N
7. Electric, gas, steam generation or storage plant	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	Y	Y	N	N	N
8. Waste disposal facilities	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	Y	N	N	N
9. Refuse transfer station	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	CC	N	N	N

#### 4.4 ACCESSORY USES AND STRUCTURES

##### 4.4.1 Nonresidential Accessory Uses.

Any use permitted as a principal use is also permitted as an accessory use provided such use is customarily incidental to the main or principal building or use of the land. Any use authorized as a principal use by special permit may also be authorized as an accessory use by special permit provided such use is customarily incidental to the main or principal building or use of the land. Any use not allowed in the district as a principal use is also prohibited as an accessory use. Accessory uses are permitted only in accordance with lawfully existing principal uses. In all instances where site plan review and approval is required for a principal use, the addition of any new accessory use to the principal use, where such addition exceeds the thresholds established in Section 10.0, shall also require site plan review and approval. Notwithstanding this provision, the following nonresidential accessory uses are permitted.

##### 4.4.2 Permitted Uses.

The following accessory uses are specifically authorized in the districts indicated:

ACCESSORY USE	DISTRICT(S)
Private garage or carport for not more than three automobiles, one of which may be a commercial vehicle not exceeding two tons rated gross weight	All
Tool shed, greenhouse, playhouse, gazebo, cabana, boat house or other similar structure for domestic use	All
Shelter for small animals commonly kept as pets	All
Private swimming pool (as regulated herein)	All
Private garage or carport for more than three automobiles	R2, RM-20, RM-40, RM-60, RO, BC, BG, BH, IG
Parking lot (as regulated herein)	RM-20, RM-40, RM-60, RO, BL, BC, BG, BH, IG, WM, IP, OP
Garage for more than one commercial vehicle or for any commercial vehicle exceeding two tons rated gross weight	BC, BG, BH, IG and IP
Animals accessory to dwellings, including cattle, horses, sheep, hogs, goats, game birds or similar livestock shall be permitted accessory to a dwelling. Such animals and their wastes shall be contained at least one hundred (100') feet from any abutting lot line of a residentially used lot, and at least one hundred (100') feet from any year-round surface water body.	RA only
Canopy	All
ATM	BC, BG, BH, BE, IG, SC, IP, RO, WM, OP, and DR
Family Day Care	All
The boarding of three (3) or fewer persons in a single family residence	All
Such other accessory uses as the Building Commissioner may deem customarily incidental to the principal use and consistent with the purposes of this ordinance	All

#### **4.4.3 Dwelling Units in Accessory Structures.**

No accessory structure shall be used as a dwelling except by special permit granted by the City Council for any auxiliary building with a dwelling unit in an RM-20, RM-40, RM-60, DR or R2 District where the City Council makes the following findings and subject to the following conditions:

1. The accessory building is of historical significance and its conversion to a dwelling unit would result in a preservation of architectural qualities that give it historical significance;
2. The dwelling unit will satisfy a desirable local need and its design and appearance will not be injurious to the establishment or future character of the vicinity and the neighborhood;
3. The conversion will not be deleterious to use and enjoyment of surrounding properties.
4. Dimensional controls: The accessory building to be converted to a dwelling unit is at least two (2) stories in height and contains a minimum of 1,000 square feet.
5. Overall design standards: The dwelling unit shall be an integral part of the premises and have convenient access to and from adjacent uses and blocks. The dwelling unit shall be related to the principal building in design, materials, and placement to provide a visually and physically integrated lot. The dwelling unit shall be accessible to emergency vehicles. The location of the dwelling unit will not interfere with existing privacy between adjacent buildings.
6. Landscaping design standards: Landscape treatment for the dwelling unit shall be part of an integrated landscape design for the entire lot.
7. Other conditions: The City Council may prescribe such further conditions with respect to the conversion of an accessory building to a dwelling unit as it deems appropriate.

#### **4.4.4 ATM as an accessory structure.**

In the case that an ATM is free-standing, the following considerations shall be made:

1. The ATM shall not be situated so as to cause vehicles to queue onto adjacent roads while awaiting service.
2. The ATM shall be provided with three (3) parking spaces, except where such ATM location is designed to serve only customers in vehicles. Such parking spaces shall not include parking spaces assigned to other principal uses on the same or adjacent lots.
3. The traffic circulation pattern for the ATM shall not interfere with parking spaces or parking lot aisles designated for other uses on the same or adjacent lots.

#### **4.4.5 Canopy as an accessory structure.**

A canopy shall be defined as an accessory structure provided that there is a permanent structure on site. A canopy shall meet the following criteria:

1. The canopy shall not project over a sidewalk or right-of-way.
2. The canopy shall have a minimum vertical clearance to grade at entrance of eight (8') feet.
3. One (1) canopy per building lot shall be allowed.
4. Those canopies projecting solely over the entrances of businesses for the protection of pedestrians shall not be considered accessory structures.

#### 4.4.6 Location of Accessory Structures.

Accessory structures attached to principal structures shall be located in accordance with the dimensional controls in the Table of Dimensional Controls, Section 5.2.1, for the district(s) in which they are located. Detached accessory structures may be erected in the rear yard area, provided:

1. Not more than twenty-five (25%) percent of the rear yard is occupied by such structures;
2. No accessory structure is located nearer than eight (8') feet of any principal structure or any rear lot line;
3. No one-story accessory structure is located nearer than five (5') feet of any side lot line, and no two (2) story accessory structure is located nearer than ten (10') feet of any side lot line.

#### 4.4.7 Height of Accessory Structures.

In all districts, except IG and WM, no accessory structure shall be higher than two (2) stories. Such structures shall not exceed twenty-two (22') feet in height for a one (1) story building and thirty (30') feet in height for a two (2) story building. In IG districts, no accessory structure shall exceed sixty (60') feet in height.

#### 4.4.8 Farm Buildings.

The provisions of this section shall not apply to agricultural structures; however, all such buildings shall be located at least fifty (50') feet from residence districts other than RA.

#### 4.4.9 Accessory to Scientific Research.

The provisions of this section shall not apply to accessory uses which are necessary in connection with scientific research, scientific development or related production activities, whether or not on the same premises as the principal use and only if such uses are accessory to principal uses permitted as a matter of right. Such accessory use may only be allowed by special permit of the City Council and only after it is determined that the proposed accessory use does not substantially derogate from the public good. All general requirements for the granting of a special permit shall apply in these cases.

#### 4.4.10 Temporary Storage units.

Temporary storage units are allowed by right if used for not more than sixty (60) days. Said container may not be utilized for more than two (2) periods of up to (60) days within one (1) calendar year. All temporary storage units must comply with the guidelines prescribed for this section, as well as complying with the provisions of Section 7.2.12, and for storage units in BH, BG, IG and IP zones, Section 6.3 Outdoor Storage Area.

**a.) Location:** temporary storage units are prohibited from being placed in streets of the front yard of a property. Units in residential zones must be kept in the driveway of the property at the furthest accessible point from the street. The applicant must obtain pre-approval from the Building Commissioner if the property does not have a driveway or the driveway is located in the front yard of the property. Units in the BG, BH, BE, IG and IP districts must comply with the guidelines prescribed for the outdoor storage of materials as outlined in Section 6.3.

**b.) Number of units:** only one temporary storage unit may be placed on any property at any time.

**c.) Registration:** Any temporary storage unit accessory to a commercial or industrial use shall be registered with the City Clerk by the person that owns, rents or controls the property at which the temporary storage unit will be used. The application shall contain the following:

- i.) the name of the person to whom the unit is supplied;
- ii.) whether the person owns, rents, occupies or controls the property;
- iii.) the address at which the unit will be placed;
- iv.) the delivery date and removal date;
- v.) active building permit number, if unit will be used for storage of building materials;
- vi.) the Building Commissioner's pre-approval of the location, if applicable; and
- vii.) a sketch depicting the location and placement of the temporary storage unit.

The application shall be accompanied by a \$25.00 fee. The effective date of the registration shall be the date of the City Clerk's approval.

**d.) Violations and penalties.** Any person who shall place a temporary storage unit in violation of this section shall be subject to a fine of not more than \$300.00 for each offense. Each day that the violation continues shall constitute a separate offense.

## **4.5 SWIMMING POOLS**

### **4.5.1 General.**

Swimming pools shall be regulated by the following provisions:

### **4.5.2 Location.**

The wall of a swimming pool shall not be located less than eight (8) feet to any dwelling or accessory structure, six (6) feet from any rear or side lot line, and ten (10) feet from the street line. A pool shall not encroach into any front or side yard of a parcel. In the case of corner lots, pools shall not be constructed within the front yards of the lot.

### **4.5.3 Safety Barrier.**

All swimming pools to be constructed, in process of construction, or already constructed shall be enclosed by a safety barrier to prohibit, within reason, unrestrained intrusion, beneath, over, or through the safety barrier enclosure by persons or animals. The safety barrier shall be constructed in accordance with current edition of the State Building Code, 780 CMR.

### **4.5.4 Lights.**

Lights to illuminate any swimming pool shall be so arranged and shielded as to direct or reflect light away from adjoining premises and public streets.

### **4.5.5 Minimum Standards.**

The minimum standards for swimming pools, as maintained by the Holyoke Board of Health in accordance with the Massachusetts Department of Public Health regulations and applicable General Laws, shall be in effect and full force for the construction and maintenance of a swimming pool.

## **4.6 FENCES**

### **4.6.1 Setback**

Fences are permitted to be installed with a zero setback from the lot line; however, the fence and any foundation, footing or other support structures shall not encroach over the lot line, or the invisible vertical plane above and below ground that is represented by the lot line.

### **4.6.2 Visibility**

#### **4.6.2.1 Corner Lot**

No Fence shall be erected or maintained within the front or side yard setback of a corner lot as defined in Table 5.2 of the Zoning Ordinance in a manner which interferes with traffic visibility across the corner

#### **4.6.2.2 Driveways**

No fence shall be erected or maintained along the front or side line of a front yard in a manner which interferes with vehicular, pedestrian or other traffic visibility or safety of egress from the driveway.

### **4.6.3 Height**

Fences along both the front and side property lines in a front yard shall not exceed four feet in height. Fences in side and rear yards shall not exceed six feet in height

#### **4.6.3.1 Artificial Foundations:**

Where a fence is placed atop any other manmade feature such as a retaining wall, berm, or foundation, the height of such structure above the surrounding (natural) grade shall be considered as part of the total height of the fence.

#### **4.6.3.2 Special Permit to Exceed Fence Height**

A Special Permit may be granted by the Planning Board to exceed the height of a fence in the following instances where the Board finds that:

- The fence is necessary for safety, security or shielding of one use from an adjacent, unlike use
- Planting materials such as hedges or shrubbery are not adequate or possible
- The fence shall not impair sight distance of vehicular, pedestrian or other traffic
- The proposed fence is of a material that is of durable construction
- The proposed fence is of a design and material that harmonizes with the surrounding neighborhood

(A) *Industrial Uses:* In the case of industrial uses in IP, IG, and WM zones, fencing height may be increased to a maximum of eight feet on any side if found necessary to shield the use from neighboring properties as well as for security purposes.

(B) *Commercial Uses:* In the case of commercial uses, when the property abuts a residential use fence height may be increased to a maximum of eight feet along the side and rear yards only. For the security of outdoor display and storage, fence height may be increased to a maximum of eight feet on all sides.

(C) *Multifamily (4 family and above) Residential/Institutional Uses:*

When the property abuts an unlike use, fence height may be increased to a maximum of eight feet when found necessary to shield that use from the neighboring uses.

(D) *Abutting Properties:* A property abutting an unlike use that is eligible to apply for a special permit to exceed fence height, shall also be eligible to apply for a special permit in accordance with the criteria set forth herein.

#### **4.6.3.3 Exemptions**

(A) Where State or Federal law requires a minimum fence height in excess of those permitted by right under this section, nothing herein shall be construed to prohibit or require a Special Permit for such a fence.

(B) *Dumpster Enclosures:* Dumpster enclosures shall shield the dumpster from sight and shall be at least as tall as the dumpster.

#### **4.6.4 Materials Used in Fencing**

##### **4.6.4.1 Generally**

Fences shall be made of wood, vinyl, brick, masonry, stone or other like and durable materials that harmonize with materials and styles used in the surrounding neighborhood.

##### **4.6.4.2 Facing Side**

Fences shall be placed with the most attractive side (e.g., in the case of a picket fence, the side without horizontal members) facing the street and neighboring properties.

##### **4.6.4.3 Antipersonnel Wire Prohibited**

No person shall install a fence in whole or in part, using razor, barbed, concertina wire or tape, or other substantially similar materials of whatever name, manufacturer or commercial designation. Where State or Federal law requires use of such fencing, nothing in this statute shall be construed so as to prohibit such required fencing materials.

## **4.7 NONCONFORMING USES AND STRUCTURES**

### **4.7.1 Applicability.**

This zoning ordinance shall not apply to structures or uses lawfully in existence or lawfully begun, or to a building or special permit issued before the first publication of notice of the public hearing required by G.L. c. 40A, s. 5 at which this zoning ordinance, or any relevant part thereof, was adopted. Such prior, lawfully existing nonconforming uses and structures may continue, provided that no modification of the use or structure is accomplished, unless authorized hereunder.

### **4.7.2 Nonconforming Uses.**

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

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

### **4.7.3 Nonconforming Structures, Other Than Single and Two-Family Structures.**

The City Council may award a special permit to reconstruct, extend, alter, or change a nonconforming structure in accordance with this section only if it determines that such reconstruction, extension, alteration, or change shall not be substantially more detrimental than the existing nonconforming structure to the neighborhood. The following types of changes to nonconforming structures may be considered by the City Council:

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

### **4.7.4 Variance Required.**

The reconstruction, extension or structural change of such nonconforming structures so as to increase an existing nonconformity, or create a new nonconformity, including the extension of an exterior wall at or along the same nonconforming distance within a required yard, shall require the issuance of a variance from the Board of Appeals.

### **4.7.5 Nonconforming Single and Two-Family Structures.**

Nonconforming single and two-family residential structures may be reconstructed, extended, altered, or structurally changed upon a determination by the Building Commissioner that such proposed reconstruction, extension, alteration, or change does not increase the nonconforming nature of said structure, and the issuance of a building permit, where applicable. In the event that the Building Commissioner determines that the nonconforming nature of such structure would be increased by the proposed reconstruction, extension, alteration, or change, the City Council may, by special permit, allow such reconstruction, extension, alteration, or change where it determines that the proposed modification will not be substantially more detrimental than the existing nonconforming structure to the neighborhood.

### **4.7.6 Abandonment or Non-Use.**

Except as otherwise provided herein, a nonconforming use or structure which has been abandoned, or not used for a period of two years, shall lose its protected status and be subject to all of the provisions of this zoning ordinance.

### **4.7.7 Reversion to Nonconformity.**

No nonconforming use shall, if changed to a conforming use, revert from a nonconforming use.



## **4.8 HOME OCCUPATION**

### **4.8.1 As of Right.**

A home occupation may be allowed as of right, provided that it:

1. Is conducted solely within a dwelling and solely by the person(s) occupying the dwelling as a primary residence;
2. Does not exhibit any exterior indication of its presence or any variation from residential appearance;
3. Does not produce any customer, client, student or pupil trips to the occupation site and has no nonresident employees;
4. Is registered with the City Clerk and an annual fee of \$100.00 is paid.

### **4.8.2 By Special Permit.**

A home occupation may be allowed by special permit issued by the City Council, provided that it:

1. Is clearly incidental and secondary to the use of the premises for residential purposes;
2. Does not produce offensive noise, vibration, smoke, dust, odors, heat, lighting, electrical interference, radioactive emission or environmental pollution;
3. Does not utilize exterior storage of material or equipment (including the parking of commercial vehicles);
4. Is conducted within a dwelling, or within a building accessory to a dwelling, solely by the person(s) occupying the dwelling as a primary residence and, in addition to the residents of the premises, by not more than one (1) additional employee not a resident;
5. Does not exhibit any exterior indication of its presence, or any variation from residential appearance, except for a sign or name plate in compliance with this Ordinance.

Such special permit may be granted subject to conditions including, but not limited to, restriction of hours of operation, maximum floor area, off-street parking, and maximum number of daily customer vehicle trips.

## SECTION 5.0 DIMENSIONAL CONTROLS

### 5.1 BASIC REQUIREMENTS.

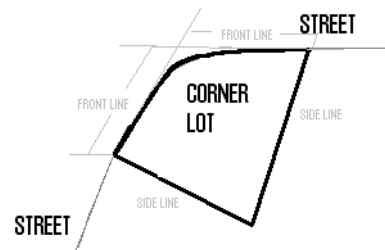
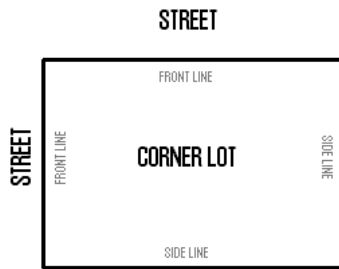
No structure hereafter constructed or altered in any district shall be located on a lot not meeting the dimensional requirements set forth in this section.

#### 5.1.1 Lot Shape.

Lots which are so distorted in configuration as to be detrimental to public health, safety, welfare or convenience, even though complying with the dimensional requirements established herein, shall not be allowed. The mean direction of side lot lines shall be as close as possible to perpendicular to the street line or to its tangent at the point of intersection of the side lot line. In no case shall the mean direction of the side lot line form an angle of less than seventy-five (75°) degrees with the street line or the aforesaid tangent.

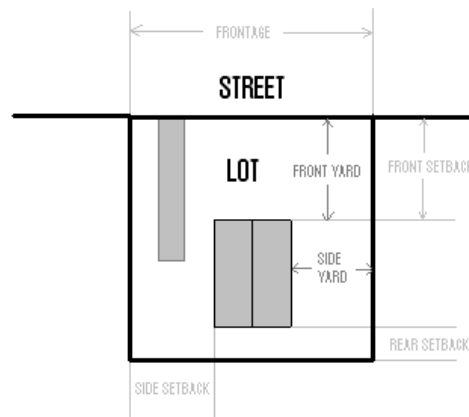
#### 5.1.2 Frontage.

Frontage may be measured either at the street line or at the rear line of the required front yard; however, in no case may the sum of these two lines be less than one and eight-tenths times the required frontage dimension. In the case of corner and through lots one street line only shall be accepted as the front street line for the measurement of frontage. On a corner lot, the depth shall be measured from the same street line that is accepted as the front street line for the measurement of frontage.



#### 5.1.3 Yards.

The minimum front yard dimensions required in the schedule are to be measured from the street line where a plan of the street is on file in the City Engineer's office, or, in the absence of such a plan, from a line twenty-five (25') feet from and parallel to the apparent centerline of the traveled way or street. On all corner and through lots the required front yard dimension shall apply from both street lines. The required side yard dimension shall apply from all other lot lines. Where a front yard is required on a corner lot, no structure, fence or planting shall be introduced or maintained in said front yard area in a manner which interferes with traffic visibility across the corner.



#### **5.1.4 Dwellings in Nonresidential Districts.**

Dwellings and public and semipublic uses permitted in business or industrial districts shall be subject to the dimensional controls of the residence district situated nearest to the premises.

#### **5.1.5 Exemptions.**

1. Nonconforming lots of record and other lots specifically exempted under G.L. c. 40A, s. 6 are exempted from the provisions of this section, provided such lots have an area of at least 5,000 square feet and a frontage of at least fifty (50') feet.
2. The yard requirements of this section shall not apply to any necessary retaining wall, nor to any wall or fence less than five (5') feet high, except as required for corner visibility (see section 5.1.2 above).
3. Open porches, steps, stoops, bay windows, balconies, and eaves, cornices and the like may extend up to five (5') feet into any required yard.
4. Any business or manufacturing structure or use of land lawfully in existence on the effective date of this ordinance in business and industrial districts is exempt from the dimensional controls of this ordinance; however, all alterations and additions to such structures or uses of land shall be in conformity with this ordinance.
5. The limitation on height of buildings and structures in the schedule shall not apply in any districts to chimneys or ventilation towers, whether freestanding or connected to a principal structure, spires or other ornamental features of buildings, provided such features are in no way used for living purposes and are not expressly prohibited elsewhere in this ordinance.

#### **5.1.6 Division of Nonconforming Lots.**

A lot or parcel of land containing two (2) or more dwellings existing at the time of adoption of this ordinance which cannot be divided in conformity with these requirements may, with the approval of the Planning Board, be divided in a manner complying as closely as possible with these requirements. Division of all other parcels of land shall be in accordance with this section. No more than one (1) dwelling unit shall be built upon any single lot, except as specifically permitted elsewhere in this ordinance.

## 5.2 TABLE OF DIMENSIONAL REGULATIONS

Except where specifically contradicted in this ordinance, all structures shall be located in accordance with the following schedule:

**NOTE:** Where building lots are located within the Water Resource Protection Overlay District, illustrated on the Zoning Map,

District	Min. parcel area (sq. ft.)	Min. area per dwelling unit (sq. ft.)	Frontage (ft.)	Depth (ft.)	Front yard (ft.)	Rear yard (ft.)	Side yard (one) (ft.)	Side yard (both) (ft.)	Max. # stories	Max. ht. (ft.)	Max. Building cover(%)
RA	20,000 <sup>1</sup>	20,000	100	125	40	40	15	35	2.5	35	20 <sup>2</sup>
R1	11,250	11,250	90	100	30	35	10	25	2.5	35	30
R1A	9,500	9,500	75	100	25	30	10	20	2.5	35	35
R2	6,000	3,000	60	100	20	25	10	20	2.5	35	40
RMLD <sup>9</sup>											
RM20 <sup>5</sup>	6,000	2,200	60	100	20	25	10	20	3	40 <sup>4</sup>	40
RM40	6,000	1,100	60	100	20	25	10	20	3	40 <sup>4</sup>	40
RM60	6,000	750	60	100	20	25	10	20	7	90 <sup>4</sup>	40
DR <sup>5</sup>											
RO	10,000	750	100	100	20	25	10	25	3	40 <sup>4</sup>	50 <sup>6</sup>
BL	10,000	Same as that of nearest residential district	75	100	30	30	15	30	2	26	35
BC	-	-	-	80	-	-	-	-	-	-	-
BG	10,000	Same as that of nearest residential district.	100	100	20	25	10	20	2	35	50
BH	10,000	-	100	100	30	25	10	10	2	35 <sup>7</sup>	50
BE	10,000	-	100	100	10	5	10	10	4	50	90
IG	10,000	-	100	100	-	-	-	-	4	60	-
WM	10,000	-	100	100	-	-	-	-	-	180	-
IP	120,000	-	150	200	50	25	25	60	7	90 <sup>4</sup>	33.3 up to 15 acre lots <sup>8</sup>
OP	100,000	-	200	250	50	50	35	60	2	40 <sup>4</sup>	33.3
SC <sup>10</sup>											

special dimensional regulations must be complied with as per Section 8.2 in this ordinance.

<sup>1</sup> Where building lots are not serviced by municipal water and sewers, the minimum lot dimension shall be one acre unless larger is required elsewhere in the ordinance.

<sup>2</sup> Residential structure only, coverage by agricultural structures is limited only by yard dimensions.

<sup>3</sup> Single- and two-family dwellings only, see supplemental regulations.

<sup>4</sup> See also Section 5.3.

<sup>5</sup> See Section 8.8.

<sup>6</sup> Maximum coverage shall include all impervious surface areas over one hundred (100) square feet.

<sup>7</sup> Notwithstanding anything to the contrary in this Code, a principal building may be up to and including 50 feet in height provided the principal building is set back a minimum of 50 feet from any other principal building or from any lot lines other than lot lines within the same complex.

<sup>8</sup> Fifty (50) percent, 15-acre lots and over. In determining the total acreage of a parcel for purposes of calculating the maximum land coverage to be permitted in IP districts hereunder, the combined acreage of contiguous or adjoining parcels in common ownership shall be considered as the total acreage even if said parcels are divided in whole or in part by a public or private way provided however that each parcel is zoned IP and each contains, individually, at least 15 acres in area.

<sup>9</sup> See Section 7.4

<sup>10</sup> See Section 8.3

### **5.3 SPECIAL PERMITS TO EXCEED HEIGHT LIMITATION**

#### **5.3.1 General.**

The City Council may grant a special permit for a structure in an RM-20, RM-40, RM-60, RO, IP, or OP district to exceed the height regulation imposed by the schedule of dimensional controls, in accordance with the following standards:

1. All dimensional requirements, including increased yard dimensions for the additional height, will be strictly adhered to.
2. The increased height will not be deleterious to use and enjoyment of surrounding properties.
3. The general character and aesthetic quality of the vicinity will not be detrimentally altered by the increased height.
4. All yard sizes shall be increased by five (5') feet for each story over the third.

### **5.4. MULTIPLE PRINCIPAL STRUCTURES.**

#### **5.4.1 General.**

Except in the residential districts, more than one principal nonresidential structure may be erected on a lot, pursuant to a special permit issued by the Planning Board in accordance with Section 9.3 herein and the following conditions:

1. No principal building shall be located in relation to another principal building on the same lot, or on an adjacent lot, so as to cause danger from fire;
2. All principal buildings on the lot shall be served by access ways suitable for fire, police, and emergency vehicles;
3. All of the multiple principal buildings on the same lot shall be accessible via pedestrian walkways connected to the required parking for the premises, and to each principal building.

### **5.5 SPLIT-ZONE PARCELS.**

#### **5.5.1 General.**

A Lot or Parcel of land defined as a Split-Zone Parcel shall meet the following criteria:

1. The requirements of zoning and use shall be calculated including only the area of the parcel upon which the planned use is allowed under Section 4.0.
2. For the purpose of construction and development of a split-zone parcel, development shall meet the requirements of Section 5.2 within the zone permitted under section 4.0, including but not limited to setback requirements from the zone boundary.

## **SECTION 6.0. GENERAL REGULATIONS**

### **6.1 OFF-STREET PARKING.**

#### **6.1.1 Basic Requirements.**

There shall be provided, at the time any building or structure or part thereof is erected, off-street parking spaces for automobiles, on the premises or on nearby premises, in accordance with the requirements set forth herein. If the use or intensity of use of a building or structure erected on or after the effective date of this ordinance is changed to another use or increased in intensity in a manner requiring more off-street parking than required for the original use, additional off-street parking spaces shall be provided to conform to this section. Except in the case of dwellings, no parking area provided hereinafter shall be established for less than three (3) spaces.

#### **6.1.2 Size and Access.**

Each off-street space shall be at least nine (9') feet in width by eighteen (18') feet in length in size exclusive of access and drives or aisles and shall be of usable shape and condition. Access to every required space shall be provided by at least one aisle of sufficient width to insure free movement in and out of the space. Where a parking lot does not abut a public way, alley or easement of access, there shall be provided at least one access drive not less than ten (10') feet in width in the case of dwellings, and not less than fourteen (14') feet in width in all other cases, leading to the parking areas required hereunder in the most appropriate manner. Such access drive shall not be located in any residence district if the drive provides access to uses other than those permitted in the residence district. Access points to off-street parking areas shall be limited to well-defined locations, and in no case shall there be permitted unrestricted access (such as continuous curb cuts along the length of the street or alley upon which the parking area abuts).

#### **6.1.3 Form of Parking Space; Setbacks.**

Where a required off-street parking space is in the form of a private garage its location on the lot shall be as provided in Section 4.0, in accordance with the regulations governing accessory uses. Where a required off-street parking space is in the form of a parking lot or other open air parking space, it shall not be located within five (5') feet of a street line or within five (5') feet of any other lot line. Greater setbacks may be required in specific instances elsewhere in this ordinance.

#### **6.1.4 Number of Spaces Required.**

Minimum standards for the provision of off-street parking spaces are set forth in the schedule below. In the case of uses not specifically enumerated herein, the provisions for the use most similar shall apply. The Building Commissioner is hereby authorized to establish reasonable off-street parking requirements in accordance with the spirit of these regulations for uses not specifically covered in the schedule.

#### **6.1.5 Joint Use.**

Off-street parking spaces for business or industrial uses may be provided to jointly serve two (2) or more buildings or uses, provided that the total spaces in such a joint parking area shall not be fewer than would be required in the schedule, above, if the buildings or uses were separate.

#### **6.1.6 Multipurpose Buildings.**

In the case of a building or structure to be devoted to more than one kind of use, the off-street parking spaces provided shall equal the total number which would be required in the schedule, below, if the uses were to be conducted in separate buildings.

#### **6.1.7 Special Permit for Reduction of Parking Requirements.**

The Planning Board may grant a special permit to reduce otherwise applicable requirements for parking where the Board finds that the reduction is not inconsistent with public health and safety, or that the reduction promotes a public benefit. Such cases might include:

1. Use of a common parking lot for separate uses having peak demands occurring at different times;
2. Age or other characteristics of occupants of the facility requiring parking which reduces auto usage;
3. Peculiarities of the use which make usual measures of demand invalid.

### 6.1.7.1 Special Permit for Parking on Adjacent or Nearby Parcel (Downtown Zones)

#### 6.1.7.2 Purpose.

The purpose of Special Permit for Parking is to allow a principal use in the downtown to meet the off-street parking standards set forth herein and to protect the health, safety, convenience and general welfare of the city by providing a mechanism to review plans for such lots and ensure that their development is in a manner that reasonably protects the visual and environmental qualities of the site and neighboring properties. The Planning Board may grant a special permit to allow parking as an accessory use on an adjacent or nearby parcel in accordance with the following:

#### 6.1.7.3 Criteria.

1. The parcel on which the principal use is located (“principal parcel”) and the parcel upon which the accessory parking is proposed (“accessory parcel”) must be located in a DR, IG or BC zone.
2. The applicant must provide documentation that they cannot otherwise provide parking on the principal parcel, including, but not limited to, plans, drawings, and diagrams.
3. The accessory parcel must be adjacent to or directly across the street from the principal parcel and both parcels must be under common ownership and used solely by the primary owner.
4. The maximum number of parking spaces allowed on the accessory parcel(s) shall be the difference between the number of spaces required to be provided for the principal use in accordance with the Table of Off-Street Parking Standards set forth herein, and the number of spaces provided on the principal parcel(s). In no event shall number of parking spaces authorized by special permit result in a total number of spaces that is greater than the number required by this Ordinance on both the principal and accessory parcels
5. The special permit shall be nontransferable, unless both the principal parcel and the accessory parcel are sold together to a new owner and the same use will continue on the principal parcel. In the event of a change of use of the principal parcel, the special permit shall be reviewed by the Planning Board for potential amendment.
6. As a condition of the special permit, the streetscape along the accessory parcel shall be improved with the inclusion of features such as trees, a green belt, or other similar features that will improve the streetscape and promote pedestrian access between the principal and accessory parcel.
7. The accessory parking allowed by a special permit under this section shall comply with all other requirements for off-street parking set forth herein.

#### 6.1.7.4 Contents.

A Special Permit submitted under this section shall be prepared by a registered architect, landscape architect, or engineer. In all downtown districts, the plan shall include the following components and information:

1. **Locus Plan.** A locus plan showing the entire proposed parking lot and its relation to existing areas, buildings and roads for a distance of one-fourth (1/4) mile from the boundaries of the proposed development or such other distance as may be approved or required by the Planning Board. 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.
2. **Utility Plan.** A plan depicting all utilities, including sewer, water, electric, cable, lighting, etc. All easements shall be illustrated on the plan describing the bounds and purpose thereof.
3. **Landscape Plan.** A landscape plan showing the limits of work, existing tree lines, and all proposed landscape features and improvements including but not limited to, fences, walls, screening devices, decorative paving, irrigation systems, and planting areas with size and type for each shrub or tree. The plan shall contain a legend stating all common, botanical names, and at what stage of maturity each is represented of the proposed species to be planted.
4. **Improvements Plan.** A plan depicting all existing and proposed parking areas and their respective areas (s.f.), driveways or driveway access aprons, sidewalks, paths, etc.

5. **Erosion Control Plan:** A plan depicting all erosion control measures to be utilized during installation including, limit of work, all methods being utilized with their location depicted on the plan (i.e. hay bales), sediment tracking pad, etc. Details shall be included for all measures.
6. **Details.** Detail sheets including, but not limited to, pavement, curbing, catch basins, signage (temporary and permanent), stormwater management structures, retaining walls, pavement markings, lighting fixtures, fencing, and any site improvements included in plan 3-5 above.
7. **Stormwater Management Plan.** Sufficient information to evaluate the environmental characteristics of the affected areas, the potential impacts of the proposed parking lot on water resources, and the effectiveness and acceptability of measures proposed for managing stormwater runoff. The plan shall be reviewed by the City Engineer in compliance with the Holyoke Code of Ordinances – Stormwater & Erosion Control Ordinance.

#### 6.1.7.5 Accompanying Narratives.

##### 1. Development Impact Statement.

- a. Summarize the content of the plans and set forth the development schedule;
- b. Explain how the proposed parking lot will fulfill a general public need;
- c. Explain how primary site currently functions. Is the existing site parking prioritized? (i.e. Parking for Seniors, Parking for Mother w/ Child);
- d. Project the economic benefits and liabilities of the proposed parking lot;
- e. Detail the demands which will be placed on city services and infrastructure by the proposed parking lot;
- f. Explain what security measures will be implemented for the proposed lot;
- g. Explain how the proposed parking lot will be integrated into the existing neighborhood through design features such as vegetative buffers and the retention of open space;
- h. Account for the impact of the proposed parking lot on all streets and intersections adjacent to or within one-fourth (1/4) mile of the proposed lot or other distance as approved by the Planning Board;
- i. Detail adequate measures to prevent pollution of surface water or ground water, to minimize erosion and sedimentation, and to prevent changes in groundwater levels, increased runoff and potential for flooding;
- j. Assure that outdoor lighting fixtures in parking areas are arranged to minimize glare and light spill over on to neighboring properties;
- k. Assure that all permits or licenses that may be required by federal, state, or local law have been obtained or will be obtained prior to installation of the parking lot; and
- l. Identify any changes that the proposed parking lot will make to features or structures of historical significance on parcels adjacent to the parcel.

##### 2. Traffic Impact Statement. The purpose of this section is to document existing traffic conditions in the vicinity of the proposed parking lot, to describe the volume and effect of projected traffic generated by the proposed lot, and to identify measures proposed to mitigate any adverse impacts of the lot. The traffic impact statement shall contain:

- a. The projected number of parking spaces;
- b. The projected traffic flow pattern including vehicular movements at all major intersections likely to be affected by proposed parking lot;
- c. Traffic flow patterns at the site including entrances and egresses and curb cuts on-site and within five hundred (500') feet of the lot;
- d. A detailed assessment of the traffic safety impacts of the proposed parking lot on the carrying capacity of any adjacent highway or road, including the projected number of motor vehicle trips to enter and depart from the site estimated for daily hour and peak hour traffic levels, road capacities, and impact on intersections existing daily and peak hour traffic levels and road capacities shall also be given;
- e. A plan to minimize traffic and safety impacts through such means as physical design and layout concepts, staggered program schedules, promoting use of public transit or carpooling, or other appropriate means;
- f. An internal traffic and pedestrian circulation plan designed to minimize conflicts and safety problems;
- g. Adequate pedestrian and bicycle access to adjacent properties; and
- h. Specific mitigation measures which alleviate impacts to the adjacent roadway network.



### **6.1.7.6 General Design Standards.**

1. Access and egress points shall be well defined and have sufficient width. Fourteen (14) feet of access onto the property for safety purposes shall be shown on plans in accordance with the Holyoke Zoning Ordinance.
2. The entire parking area must be paved and striped and have a perimeter curb or barrier that must be provided to prevent encroachment of the vehicles into the required setback and landscaped areas.
3. The maximum number of parking spaces on a lot shall be the number which is the result of dividing the usable square feet of parking area by three hundred ten (310) to include allowance for setbacks and access.
4. All parking lots shall buffer the activities from adjacent parcels by landscaping or other buffering materials. Preferred materials shall be decorative fencing and/or vegetative material to beautify the property. Landscape plans shall be forwarded to the Planning Board for review.
5. Within the right of way, when trees are proposed, trees shall be installed with the spacing, caliper and species as approved by the City Forester.
6. Where a required off-street parking space is in the form of a parking lot or other open air parking space, it shall not be located within five (5') feet of a street line or within five (5') feet of any other lot line. Greater setbacks may be required in specific instances elsewhere in this Ordinance.
7. All outdoor lighting shall be directed so that it does not shine or spill onto adjacent properties.
8. Parking lots shall not be within 25' feet of another permitted parking area. .
9. Auto-related uses shall not be allowed in circumstances where the accessory parking lot is larger than the parking lot of the primary parcel and shall not be used for the storage of motor vehicles.
10. If required for accessibility, an ADA connection between the parking lot and the primary parcel (use) shall be incorporated into the plan and its installation shall be paid for at the expense of the Applicant.

### **6.1.7.7 Stormwater Management Design Criteria and Standards.**

All stormwater management measures must comply with the Holyoke Stormwater & Erosion Control Ordinance and all Parking Lots will require a Stormwater Permit issued by the Stormwater Authority. No plan shall be approved unless the development provides design and management measures necessary to maintain the post development peak discharges for a 24-hour, two (2) year frequency storm event at a level that is equal to or less than the respective, pre-development peak surcharge rates. When the proposed discharge may have an impact upon a sensitive receptor, including streams, storm drains, combined sewers, roads, and/or buildings, the City Engineer may require an increase in these minimum requirements. The plan shall incorporate the following performance standards to accomplish this objective:

- 1. Stormwater Management Measures.** Stormwater management measures shall be required to satisfy the minimum control requirements and shall be according to the following order of preference:
  - a. Low Impact Development technologies.
  - b. Infiltration, flow attenuation, and pollutant removal of runoff through the use of open vegetated swales, natural depressions or underground systems.
  - c. Detention and evaporation of stormwater in parking lots.
  - d. Use of stormwater for irrigation.
  - e. Stormwater detention structures for the temporary storage of runoff which are designed so as not to create a permanent pool of water.
  - f. Stormwater retention structures for the permanent storage of runoff by means of a permanent pool of water.
- 2. Low Impact Development.** An applicant shall utilize low impact development best practices as described in the Massachusetts Stormwater Management Guide.

### **6.1.7.8 Application.**

The following documents must be provided at the time of the Special Permit application:

- a. Two (2) original application forms and a designer's certificate.
- b. \*Five (5) full sets of the site plans drawn to scale no larger than 24" x 36", and seven (7) copies of reduced size plans, preferably 11"X17". Plans shall be prepared by a registered surveyor, engineer or architect and shall include the names and addresses of the record owner, design professional and include their seals.
- c. A digital (pdf) file of the site plan and other required submittal materials.
- d. List of property owners and their addresses for all parcels of land within 300 feet of the subject parcel, to be obtained from the most recent property list from the Holyoke Assessors Office.
- e. Stamped A10 sized envelopes twice the quantity of the number of abutters established in (d) above. Envelopes will be used to mail hearing notices and the decision to all abutters.
- f. Required fee of \$100; Check made payable to the *City of Holyoke*.
- g. The Planning Board will require the applicant to submit as-built drawings and plans in computer formats. Contact the Planning Board for required format.
- h. A Revision List is required for all revisions to plans.
- i. The cost of publication shall be borne by the applicant.

\* Number may vary with location, please call to confirm number of plans required for submission.

#### **6.1.7.9 Review Procedure.**

Once the Application is received by the Planning Board Clerk, a copy of the application materials shall be forwarded to the City Engineer / Stormwater Authority, Building Department, Historical Commission, Fire Department, and Conservation (if applicable) for comment. Each shall be given 21 days, running concurrently from the date received by the Planning Board Clerk, to provide a written response. The Planning Board will take this information, as well as Planning Staff comments, into consideration during their Public Hearing.

#### **6.1.7.10 Action by the Planning Board.**

Special Permit review shall be conducted in accordance with the procedures set forth in G.L. c. 40A. After determining that the Special Permit is in conformance with the requirements of this Ordinance, the Planning Board may approve, approve with modification, or disapprove the application or grant leave to withdraw. Approval may be subject to any conditions, modifications and/or restrictions as the Planning Board may deem necessary. Leave to withdraw or disapproval by the Planning Board must be supported by written findings.

1. Failure to take action within ninety (90) days following the date of the public hearing shall be deemed to be a grant of site plan approval, and the site plan will be approved.
2. The Planning Board shall file a copy of its decision with the City Clerk within fourteen (14) days. No approval shall be issued until the twenty (20) day appeal period has lapsed.
3. The Planning Board may require the posting of a bond for public improvements in an amount to be recommended by the City Engineer, to assure compliance with the public improvements required by this site plan as approved by the Planning Board. The amount of the bond shall not exceed the cost of the public improvements.

#### **6.1.7.11 Enforcement, Lapse and Appeal.**

The terms and conditions of Special Permit approval shall be enforced by the Building Commissioner. Any Special Permit approval issued under this section shall lapse within two (2) years if a substantial use thereof has not commenced sooner except for good cause. Such extension request shall be submitted to the Planning Board, in writing, prior to the expiration of said 2 year term. The time required to pursue and await determination of a judicial appeal pursuant to G.L. c. 40A shall not be included within the two (2) year time.

1. Appeal. Persons aggrieved by the action of the Planning Board pursuant to this Section 6.1.7.1 shall appeal in accordance with the provisions of G.L. c. 40A, s. 17.
2. Special Permit shall be renewed bi-annually by the anniversary date of its approval. Things such as complaints, use, maintenance will be looked at as criteria for renewal. Renewals are not subject to an additional fee.
3. Any violation of any provision of this Ordinance shall result in penalties as prescribed by the City of Holyoke Code of Ordinances, and local, state and federal laws, up to and including, revocation of the Special Permit.

**6.1.8 Residential Driveways.**

On residentially zoned lots, driveways shall be constructed within the side yard as illustrated below in Figure 1 and Figure 2.

At least 50% of the front yard, as defined herein, must be designated as landscaped open space. Parking areas shall not be allowed between the house and the street of any residentially zoned lots. No vehicle may be parked in the Landscaped Open Space area of any front yard.

FIGURE 1.

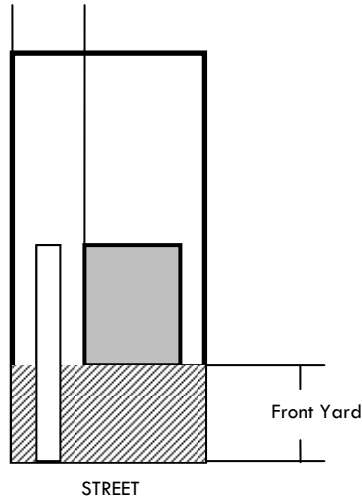
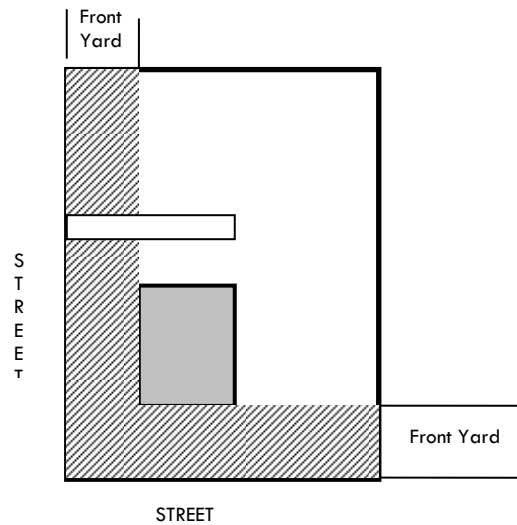



FIGURE 2.



 - Front Yard area. This area shall consist of at least 50% of Landscaped Open Space, as defined herein.

**6.1.8.1 Special Permit for a driveway in a front yard.**

A Special Permit may be granted by the City Council for a driveway within the front yard of a residentially zoned property in special circumstances that hinder the property owner from complying with this regulation.

The driveway may be allowed by special permit where the City Council determines that the following conditions have been met:

1. The property complies with the front yard landscaped open space requirement of 50% remaining landscaped.
2. The proposed driveway is compatible with the surrounding neighborhood.
3. The proposed driveway meets all requirements of the Department of Public Works, including but not limited to curb cut permit(s), setbacks, and distance from intersections, etc.

**6.1.9 COMMON DRIVEWAYS**

**Purpose:**

Common drives may be allowed by Special Permit from the Planning Board in all zoning districts. The purpose of this ordinance is to:

- allow for more efficient traffic flow,
- reduce traffic hazards from numerous individual driveways,
- consolidate access to lots across wetland and steep slope resources,
- provide access where such an arrangement will be more advantageous to the neighborhood than separate driveways, and
- preserve or enhance the prevalent character of an area by reducing curb cuts that would otherwise be allowed and by maintaining existing vegetation and topography.

**Definition:**

Common Driveway- A form of access, which is not an accepted public roadway (street), but extends from a public roadway to provide common vehicular access to more than one (1), but no more than three (3) lots, built in accordance with standards set forth in this ordinance, and allowed only by Special Permit.

**Common Driveway Standards**

All applicants must comply with the standards below including those where there are existing driveways. The applicant shall submit documents, plans, and profiles to the Planning Board for its approval of the proposed common driveway to assure compliance with the following standards for common driveways prior to the issuance of a building permit:

- a) **Length and Width.** The minimum width for residential common driveways shall be sixteen feet (16') from the roadway to the point of intersection of individual driveways, unless otherwise approved by the City Engineer. The maximum length shall be five hundred feet (500'). The curb radii of a driveway at its intersection with the public roadway shall be in accordance with the Regulations of the Holyoke Department of Public Works. Commercial common drives shall comply with the regulations of the Department of Public Works.
- b) **Materials.** Driveways shall be surfaced with a durable, all-season non-dusting material, drained and suitably maintained to the extent necessary to avoid any nuisance by reason of dust, erosion or water flow onto streets or adjoining properties. The common driveway shall be paved within the right-of-way of the public roadway to the satisfaction of the City Engineer. Commercial and Industrial common driveways shall be paved in accordance with the requirements of the Department of Public Works.
- c) **Site Distance.** The common driveway shall have adequate sight distance at its intersection with the public roadway and shall not create traffic (or pedestrian) safety hazards to its users or to the public.
- d) **Disturbance.** The location and construction of a common driveway shall minimize soil disturbance, vegetation removal, and drainage impacts, and preserve existing trees of over 12" caliper and other natural features of special significance to the greatest extent practicable.
- e) **Frontage.** The common driveway shall enter from the same public roadway which serves as frontage for the lots in the common drive development, and shall be located entirely within the boundaries of the lots served thereby. Each lot shall have legal frontage on a public way meeting the requirements of the Zoning Ordinance in effect with regard to the district in which the lot is located at the time of the application. All other dimensional requirements for lots served by a common driveway, including but not limited to lot area, coverage, width, and setback of front, side and rear yards, as measured in relation to the public way serving as the legal frontage for the lots, shall be the same as would be required for those lots had they not shared a common driveway.
- f) **Parking.** Parking shall be in compliance with the Zoning Ordinance Section 6.1.8 Residential Driveways.
- g) **Status & Covenant.** The common driveway shall not become a public or private way maintained by the City. Further, the City of Holyoke shall not be required to provide construction, reconstruction, maintenance, trash removal, snowplowing, school bus pickup or police patrols along the common driveway. Further, a covenant shall be placed on the property stating that the owners of property served by the common driveway shall not petition the City for accepting the driveway as a public way and that all lots served by the common driveway are jointly responsible for its maintenance and repair. The covenant shall be recorded at the Hampden County Registry of Deeds. Evidence of the recording must be submitted to the Building Commissioner and Planning Board prior to the issuance of a Building Permit for any lot served by the common driveway.
- h) **Existing Common Driveways.** Any common driveway in existence at the time of adoption of this amendment will not be subject to these conditions. Such pre-existing common driveways may not be changed unless such expansion, extension, or change is not substantially more detrimental to the neighborhood than the existing driveway.

**TABLE OF OFF-STREET PARKING STANDARDS**

PRINCIPAL USE	REQUIRED OFF-STREET PARKING SPACES
<b>A. RESIDENTIAL USES</b>	
1. Single-family dwelling	2 for each dwelling unit
2. Two-Family dwelling	2 for each dwelling unit
3. Multifamily dwelling	2 for each dwelling unit up to 50 units and 1.5 for each dwelling unit in excess of 50
4. Boarding house	1 for each sleeping room plus employees*
5. Mobile home park	2 for each dwelling unit, plus one space per each five homes
6. Planned unit development	As set forth in Section 7.0
7. Independent Living, Retirement, and Assisted Living	As set forth in Section 7.0
8. Residential care or rehabilitation center	As set forth in Section 7.0
9. Dwelling unit on second story	2 for each dwelling unit
10. Conversion to dwellings	2 for each dwelling unit
<b>B. EXEMPT AND INSTITUTIONAL USES</b>	
1. Use of land or structures for religious purposes	1 for each 3.5 seats
2. Use of land or structures 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	<p><b>For elementary schools:</b> 1 space for each teacher and each employee and 2 spaces per classroom;</p> <p><b>For secondary schools:</b> 1 space for each teacher and each employee and 1 space for each 4 students;</p> <p><b>For college or other institutions of higher learning above the 12th grade:</b> 1 space for each 3.5 seats in an auditorium or 1 for each 17 classroom seats, whichever is greater/plus employees*</p>
3. Family day care home	1 space per teacher and each employee plus the required spaces per dwelling unit
4. Child care facility	1 space for each teacher and each employee and 2 spaces per classroom
5. Use of land for the primary purpose of agriculture, horticulture, floriculture, or viticulture on a parcel of more than five acres in area	Not applicable
6. Facilities for the sale of produce, and wine and dairy products, provided that during the months of June, July, August, and September of every year, or during the harvest season of the primary crop, the majority of such products for sale, based on either gross sales dollars or volume, have been produced by the owner of the land containing more than five acres in area on which the facility is located	As may be determined by the Building Commissioner
7. Cemeteries, private	Not applicable
8. Municipal facilities	As may be determined by the Building Commissioner
9. Essential services	As may be determined by the Building Commissioner
10. Hospital	1 space for each 3 beds plus 1 for each 50 square feet of outpatient facilities plus employees* plus 1 for each 400 square feet net floor space of medical office buildings related to hospitals

<b>C. COMMERCIAL USES</b>	
1. Nonexempt farm stand for wholesale or retail sale of products	As may be determined by the Building Commissioner
2. Nonexempt educational use	1 space per teacher employees* and required spaces per dwelling unit or per classroom
3. Animal clinic or hospital; kennel	1 space for each 400 square feet of gross floor space
4. Nursing or convalescent home	1 space for each 6 beds plus employees*
5. Funeral home	20 spaces for each reposeing room
6. Hotel	1 space for each 3 sleeping rooms/plus employees*
7. Motel; overnight cabin	1 space for each unit/plus employees*
8. Bed and Breakfast	1 space for each room for rent plus 2 for dwelling unit if owner resides on premises
9. Retail stores and services not elsewhere set forth	1 for each 300 square feet of gross floor space
10. Retail with incidental wholesale, processing, or manufacturing of products, the majority of which are sold on the premises, with less than 10 nonretail employees	1 for each 300 square feet of gross floor space
11. Personal service establishment	1 for each 400 square feet of gross floor space
12. Motor vehicle, trailer, or boat sales and rental	1 for each 400 square feet of gross floor space of showroom; others as may be determined by the Building Commissioner
13. Motor vehicle general and body repair	4 spaces for every service bay/plus employees*
14. Motor vehicle light service	4 spaces for every service bay/plus employees*
15. Car wash	Spaces for employees*
16. Restaurant, bar, night club	1 space for each 4 seats plus employees*
17. Restaurant, fast-food or drive-in	1 space for each 40 square feet of gross floor space
18. Business or professional office; bank, financial agency or institution	1 space for each 300 square feet of gross floor space
19. Business or professional office, bank, financial agency or institution not exceeding 2,500 sq. ft. of gross ground floor area	1 space for each 300 square feet of gross floor space
20. Medical office building, clinic, or testing laboratory	1 space for each 200 square feet of gross floor space
21. Medical office building, clinic, or testing laboratory not exceeding 2,500 sq. ft.	1 space for each 200 square feet of gross floor space
22. Any commercial drive-through use	Not applicable
23. Indoor commercial recreation	1 space for each 150 square feet of gross floor space
24. Arcade	1 space for each 100 square feet of gross floor space
25. Outdoor commercial recreation	As may be determined by the Building Commissioner
26. Amusement park	As may be determined by the Building Commissioner
27. Membership club, civic, social, professional or fraternal organization	1 space for each 60 square feet of gross floor space
28. Commercial parking lot or garage	Not applicable

29. Adult entertainment establishment	1 space for each 4 seats plus employees*
30. Wireless Communications Facility	1 space per facility
31. Flea market	1 space for each 150 square feet of gross floor space
<b>D. INDUSTRIAL USES</b>	
1. Quarrying or other extractive operation	Not applicable
2. Light manufacturing	1 space for each 4 employees in the maximum working shift for establishments with 10 or more employees (in IP districts no on-street parking shall be permitted)
3. Manufacturing	1 space for each 4 employees in the maximum working shift for establishments with 10 or more employees (in IP districts no on-street parking shall be permitted)
4. Wholesale, warehouse, self-storage mini-warehouse, or distribution facility	1 space for each 2 employees in the maximum working shift; others as may be determined by the Building Commissioner
5. Wholesale or warehouse incidental to manufacturing product on the premises	1 space for each 2 employees in the maximum working shift
6. Contractor's yard	1 space for each 2 employees in the maximum working shift
7. Junkyard or automobile graveyard	Not applicable
8. Transportation freight terminal	As may be determined by the Building Commissioner
9. Fuel storage or distribution facility	As may be determined by the Building Commissioner
10. Electric, gas, steam generation or storage plant	As may be determined by the Building Commissioner
11. Waste disposal facilities	As may be determined by the Building Commissioner
12. Landfill; hazardous waste treatment or disposal facility	As may be determined by the Building Commissioner
13. Bus, taxi or other public transit terminal facility	As may be determined by the Building Commissioner

NOTES TO TABLE OF OFF-STREET PARKING STANDARDS

1. Where marked with an asterisk (\*), space for employees shall be computed at the rate of 2 spaces for each 3 employees in the maximum working shift.
2. Net floor space shall mean the total area of the building less space devoted to hallways, stairwells, utility areas and storage.
3. Gross floor space shall mean the total area of the building without subtracting the space devoted to hallways, stairwells, utility areas and storage.
4. Where the Building Commissioner determines the required off-street parking, he or she shall use the nearest comparable use in making such determination.

## **6.2 OFF-STREET LOADING**

### **6.2.1 Basic Requirements.**

There shall be provided at the time of construction of any building or structure or part thereof having a gross floor area of 5,000 square feet or more and intended to be used for business or industrial purposes, or other uses similarly requiring the receipt or distribution by vehicles of material or merchandise, a minimum of one off-street berth for loading and unloading, and such additional berths as are sufficient in the reasonable judgment of the Building Commissioner for the proposed use.

### **6.2.2 Size and Access.**

Loading berths shall not be less than twelve (12') feet in width, twenty-five (25') feet in length, and fourteen (14') feet in height. Access to every required berth shall be provided by drives of suitable width for the free maneuvering of service vehicles. No loading berths shall be accessible directly from public streets or ways. Access drives for loading berths shall not traverse parking areas for public use in a manner to threaten the safe and efficient use of such parking areas.

### **6.2.3 Location.**

Off-street loading berths shall not be located within ten (10') feet of a street line or within five (5') feet of any other lot line. Greater setbacks may be required elsewhere in this ordinance. Insofar as possible, facilities for handling all shipping and receiving shall be located on those sides of the building which do not front on a street.

## **6.3 OUTDOOR STORAGE AREAS**

No outdoor storage of material or equipment shall be established or maintained in any district except BG, BH, IG and IP, and then only when incidental to the operation of a business or industry and only in compliance with the following regulations:

### **6.3.1 BG and IP Districts.**

In BG and IP districts, no open storage shall occupy an area exceeding in size twenty-five (25%) percent of the area of the same premises which is covered by buildings.

### **6.3.2 IP District.**

No such area in an IP district shall be located within a hundred (100') feet of any residence district; in BG and BH districts, no outdoor storage area shall be placed within thirty (30') feet of any abutting residence district.

### **6.3.3 Adjacent to Residential Districts.**

All outdoor storage facilities shall be enclosed by a fence, wall or screen planting adequate to conceal such facilities and the contents thereof from adjacent residential districts.

### **6.3.4 Highly Inflammable Materials.**

No highly inflammable or explosive liquids, solids or gases shall be stored in bulk above ground. Tanks or drums of fuel directly connected to heating devices or appliances located on the same premises as the tanks or drums of fuel are excluded from this provision.

### **6.3.5 Nuisances.**

All materials or wastes which might cause fumes or dust or which constitute a fire hazard or which may be edible by or otherwise be attractive to rodents or insects shall be stored outdoors only in closed containers.

### **6.3.6 Windblown Materials.**

No materials or wastes shall be deposited on any premises in such form or manner that they may be transferred off such premises by natural causes.

### **6.3.7 Automobile Junkyards and Wrecking Establishments.**

Automobile junkyards and wrecking establishments are not permitted in any district.

**6.3.8 Temporary storage units.** See Section 4.4.10. Temporary storage units are allowed by right if used for not more than sixty (60) days. Said container may not be utilized for more than two (2) periods of up to sixty (60) days within one (1) calendar year. All temporary storage units in the above stated zones must comply with the guidelines prescribed for the outdoor storage of materials as set forth in this section, as well as complying with the registration provisions of Section 4.4.10.c.



## 6.4 SIGNS

### 6.4.1 General.

For the purposes of this ordinance, any business or advertising sign exceeding six (6) square feet in area shall be considered a separate structure and shall require a permit for its erection, alteration, or reconstruction.

### 6.4.2 Exemptions

The following shall not be considered signs within the context of this ordinance:

- (a) Flags and insignia of any government except when displayed in connection with commercial promotion.
- (b) Legal notices or informational devices erected or required by public agencies.
- (c) Temporary devices erected for a charitable or religious cause, provided they are removed within seven (7) days of erection.
- (d) Temporary displays inside windows, covering not more than thirty (30) percent of window area, illuminated by building illumination only.
- (e) Standard gasoline pumps bearing thereon in usual size and form the name, type, and price of gasoline.
- (f) Integral decorative or architectural features of a building, except letters, trademarks, moving parts, or parts internally illuminated or decorated with gaseous tube or other lights.
- (g) Devices identifying a building as distinct from one (1) or more of its occupants, such device being carved into or attached in such a way as to be an integral part of the building, not illuminated separate from building illumination, without color contrasting with sign background, and not exceeding four (4) square feet in area.
- (h) Address identification through numerals or letters not exceeding three (3) inches in height.
- (i) Textile or fabric banners that do not advertise a business or product. The material may be supported by framing and which is attached to the building by either a pole as in an "Open" sign or directly to a building such as an architectural feature.
- (j) Banners not extending into the public right-of-way unless permitted by the DPW, attached to the building façade often used as an architectural feature. No advertising, business name, or the like on such sign shall be greater than 6 square feet.
- (k) Banners attached to light poles. Sponsorship may be displayed on said banner provided that it not be greater than 6 square feet.

### 6.4.3 Special Regulations.

1. *Projection.* Signs shall not project beyond property lines. Signs shall not project over public sidewalk areas without receiving a permit from the Board of Public Works. Signs permitted by the Board of Public Works must conform to the requirements of this ordinance. No projecting sign in a business or industrial district shall project more than six (6') feet from the main wall of a building. Wall signs may not project more than 12" from the surface of the wall to which they are attached. On corner lots, no sign or portion thereof shall interfere with vehicular or pedestrian traffic and visibility.
2. *Signs in Right-of-Way.* Signs, other than an official traffic sign, shall not be erected within the right-of-way lines of any street unless such advertising sign is in conjunction with a service sign as described in G.L. c. 85, s. 2D. Further, a fee of \$50.00 for such sign shall be paid to the Board of Public Works, and the Board of Public Works shall determine the location of the sign, and its size.
3. *Height.* No sign shall be higher than the height limit for the district in which it is located. No sign shall be located upon the roof of any building. (moved from business section into beginning)
4. *Painted wall signs.* No sign exceeding sixty (60') square feet in area shall be painted upon the wall of a building or otherwise affixed so that it is not easily removable. Pre-existing historic wall advertisements shall be allowed to be restored to their original state and content.
5. *Temporary For Sale Signs.* All temporary signs advertising the sale or lease of the premises shall be removed within ten (10) days after the transfer of the premises.
6. *Electronic Signs.* No sign or advertising device shall, in any district, incorporate or be lighted by, flashing, scrolling or blinking lights, or be designed to attract attention by change in light intensity or direction, or by repeated mechanical or electrical motion. Fixed banners or electronic signs using changeable lights to convey the time, temperature, shall be exempt from this prohibition.

7. *Temporary Sign.* Temporary signs shall include fixed signs, portable signs, banners, inflatable, balloon signs, sandwich boards, and other similar signs. Temporary signage greater than 6 square feet shall require a permit and shall comply with Section 6.4.6 for such purposes as “grand openings”, “coming soon” announcements, “going-out-of-business” sales and seasonal promotions. Not more than one sign shall be placed per business except in the case of a corner lot where two (2) signs are permitted (one facing each street).
  - A sign for purposes of sales and general announcements shall be removed within 30 days.
  - Construction “coming soon” announcements shall be removed within one week of the final certificate of occupancy being granted.
  - Temporary signs shall not be placed on or affixed to vehicles. Permanent signs affixed to vehicles are exempt from this section.
  - No temporary signs may be placed in the right-of-way without obtaining a permit from the Board of Public Works.
  - Sandwich boards are allowed within the Right-of-Way with a permit from the Board of Public Works provided that they are only displayed during business hours.
8. *Sign Glare.* No lighting or illumination shall be permitted to be used in any way in connection with an illuminated sign unless it is effectively shielded so as to prevent light from being directed at any portion of the traveled way or onto any other property. Signs shall not cause glare or impair the vision of the driver of any motor vehicle, or otherwise interfere with any drivers’ safe operation of a motor vehicle.
9. *Wayfinding Signs:* Signs placed on a premise to guide the public to a specific location on site. Signs may be placed at the entrance to a: parking lot, private right of way, private driveway or similar.
  - Sign shall be no greater than five (5) feet in height above the surrounding (natural) grade
  - Sign shall not exceed a total of twelve (12) square feet maximum surface area
  - No sign shall be erected so as to interfere with vehicular or pedestrian line of sight
  - Co-location of multiple tenant sites is required
  - One sign for every continuous 300 feet of private roadway shall be allowed when placed within the grounds, development, or campus.

#### **6.4.4 Previously Constructed, Nonconforming Signs.**

Any new signs, as of the date of first publication of this revision on May 13, 2008, must comply with this section.

1. Signs legally existing at the time of this Ordinance may continue as non-conforming structure.
2. No nonconforming sign shall be structurally altered so as to change the shape, size, color, content, or type of the sign, nor shall any nonconforming sign be relocated.
3. No nonconforming sign shall be allowed to remain after the business has been discontinued.

#### **6.4.5 Signs in Residence Districts.**

The following types of unanimated, non-illuminated signs are permitted in residential districts:

1. *Nameplate or identification signs.* A sign indicating the name or address of the occupant, or a permitted home occupation, not larger than one (1) square foot in area shall be permitted. Only one (1) such sign per dwelling unit is permitted, except in the case of a corner lot where two (2) such signs (one facing each street) are permitted for each dwelling unit.
2. *Multifamily dwellings, rooming houses, nonresidential buildings, and businesses located in a mixed use building.* A single identification sign not exceeding twelve (12) square feet in area and indicating only the name and address of the building and the name of the management or the name of the business may be displayed. On a corner lot two (2) such signs (one facing each street), are permitted.
3. *Multifamily developments, residential subdivisions, assisted living facilities, etc.* Monument signs shall be allowed in the above circumstances. A single identification sign not exceeding forty (40) square feet in area and indicating only the name of the facility and/or the name of the management may be displayed. In the case of a corner lot, and in case where there is more than one entrance to the facility, one (1) such sign is permitted at each street, or one at each entrance, not both.

4. *Sale or rental signs advertising the sale or rental of the premises.* Said signs shall be permitted where they are erected by the owner or broker and signs bearing the word "sold" or "rented" with the name of the persons effecting the sale or rental. No such sign shall exceed four (4) square feet in area. Not more than one sign shall be placed upon any property except in the case of a corner lot where two (2) signs are permitted (one facing each street).
5. *Exempt and Institutional signs. Signs as identified in section 4.3 Table of Principal Uses, (B) Exempt & Institutional Uses:*
  - Signage shall be allowed in accordance with Section 6.4.6, Signs in Business and Industrial Districts shall follow that which is allowed for Business Highway (BH)
6. *Political signs.* Said signs shall not exceed six (6) square feet and may be erected or posted in residential districts not within the public way.
7. *Bed and breakfast signs.* Signs shall identify the establishment rather than advertise it. Signs shall be limited to six (6) square feet in size (was 2 square feet), one per establishment, and shall not be self-illuminated.
8. *Signs advertising the sale of any vehicle.* A sign advertising the sale of any vehicle, boat or any other item(s) of personal property may be erected or placed on or in proximity to the particular vehicle, boat or other personal property being offered for sale at the residence of the owner, provided however, that such vehicle, boat or other personal property being offered for sale is located exclusively in the driveway of the residence of the owner of such vehicle, boat or other personal property. No such sign shall be erected or placed on the premises of the owner for more than thirty (30) continuous days. No such sign shall exceed four (4) square feet in area. Not more than one such sign shall be placed at such premises. This section shall not apply to lawful signs advertising a tag sale for which a permit was issued in accordance with Section 66-91 of the Holyoke Code of Ordinances.
9. New signage as defined within Section 6.4 may be permitted in residence districts when the following conditions are met:
  - The property is a legal pre-existing, non-conforming commercial/business use as determined by the Building Commissioner
  - Is permitted to operate as regulated by the City of Holyoke
  - The proposed sign is limited to one twelve (12) square foot sign per place of business per side of building facing the street.

#### **6.4.6 Signs in Business and Industrial Districts.**

Political signs, not exceeding six (6) square feet may be erected or posted in business and industrial districts, not within the public way, provided, however, that such restriction shall not apply to political signs erected or posted on campaign offices. All signs permitted in residence districts are permitted in business and industrial districts. Business announcement signs and signs advertising goods and services for sale on the premises are permitted in business and industrial districts in accordance with the following regulations:

1. *Total Wall Sign Area.* No more than one (1) wall sign per place of business shall be allowed per side of building fronting a street. In the case of wall-mounted signs, signs affixed to, suspended from, or incorporated as part of a building, they shall comply with the Table below, provided that the total area of the signs on a wall shall not exceed 10% of the area of that wall.
2. *Total Pylon Sign Area.* No more than one (1) free standing sign per entrance for a single tenant site shall be allowed, and shall comply with the Table below.
3. *Multi-tenant pylon signs:* In the case of a multi-tenant facility, co-location of signs on one pylon is required. One pylon sign per entrance to such facility shall be placed at the entrance listing all businesses within the facility.
4. *Special Permit.* A Special Permit for an increase in size or for more than one sign per business on a wall may be granted by the Planning Board. The gross surface areas of signs on any premises shall not exceed those specified in the following table:

**SIZE LIMITATIONS FOR SIGNS IN BUSINESS AND INDUSTRIAL DISTRICTS**

<b>DISTRICT</b>	<b>MAXIMUM SURFACE AREA PERMITTED FOR EACH SIGN AS OF RIGHT (SQ. FT.)</b>	<b>MAXIMUM SURFACE AREA OF SIGN AUTHORIZED BY SPECIAL PERMIT (SQ. FT.)</b>
DR*	40	80
RO	40	80
BL	40	80
BC	40	80
BE	40	80
BG	40	80
BH	40	80
BH**	200	300
IG	75	150
WM	75	150
IP	75	150
SC	75	150

See Section 6.4.6.2 above for multi-tenant sites.

\*Signs for businesses within the DR Zoning District shall comply with the above regulations. All residential uses within the DR District shall comply with Section 6.4.5 Signs in Residential Districts.

\*\*Signs for businesses within the BH Zoning District having 25,000 square feet or more of floor area.

5. Promotional, advertising, and civic signs are prohibited in an IP zone.
6. *Window signs.* Signs affixed to the inside of windows or otherwise displayed inside a building such that they can only be viewed from outside the building are allowed, provided the total area of window signs is no larger than twenty (20%) percent of the area of first floor windows of the business displaying the window signs. The allowed area of window signs shall be calculated separately from either permanent or temporary signs, as described in other sections of this ordinance.
7. *Signs on canopies.* Signs shall be allowed on canopies with the display area being measured by drawing a box around the name of the business and any other graphic features of the sign. Such signs shall be painted on or attached flat against the surface of, but not extending beyond or attached to the underside. A minimum clearance above the sidewalk level of seven (7) feet must be allowed for pedestrian clearance. If located over public sidewalks, a permit must be granted by the Board of Public Works.

**6.4.7 Advertising Signs or Billboards.**

Any new billboards are prohibited in all zones, as of the date of this Ordinance.

1. No nonconforming sign shall be structurally altered so as to change the shape, size, or type of the sign, nor shall any nonconforming sign be relocated.
2. No nonconforming sign shall be allowed to remain more than 2 years after the activity, business or use to which it relates has been discontinued.
3. If a nonconforming sign is damaged in such a manner that the estimate expense of repairs exceeds fifty percent (50%) of its replacement value, the sign shall not be allowed to remain and must be removed.

**6.4.8 Signs for Professional Office or Studio in Professional Office Overlay District.**

Signs for a professional office or studio located within the Professional Office Overlay District located on Northampton Street from Beech Street to Dwight Street shall be limited to one (1) and no greater than 2 feet by 3 feet, must be illuminated from outside rather than from within, and must be approved through the Special Permit Process. All signage must be designed in a manner compatible to the existing structures as well as the surrounding neighborhood. Interiorly-lit signs that existed prior to December 20, 1994 shall be allowed to remain and/or be replaced with a sign of equal or lesser size.

**6.4.9 Advertising Blimp. See Section 7.2.3.**

**6.4.10 Enforcement**

1. This Ordinance shall be administered and enforced by the Building Commissioner.
2. Violations and penalties. Any person, corporation or entity found in violation of any provisions of this Ordinance shall be punished by a fine in accordance with the following schedule of fines. Each day that the violation continues shall constitute a separate offense per sign.

# of Offense	Penalty	Max Penalty
1 <sup>st</sup>	warning	N/A
2 <sup>nd</sup>	\$25	\$100
3 <sup>rd</sup>	\$100	\$500
4 <sup>th</sup> and subsequent offense	\$300	no cap

Notice of violation and procedures pertaining thereto shall be in accordance with MGL Ch. 40, Sect. 21D (Non-criminal disposition).

**6.5 PERFORMANCE STANDARDS**

**6.5.1 General.**

In no district will any use 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 neighborhood. All industrial uses and uses accessory thereto shall be subject to the following performance standards and procedures. Any other use, existing or proposed, which the Building Commissioner or the Board of Appeals adjudges to be violating or likely to violate these standards shall also be subject thereto. No land or building in any district shall be operated in a manner to create any dangerous, injurious, noxious or otherwise objectionable fire, explosive or other hazard; noise or vibration; odor; smoke, dust, dirt or other form of air pollution; electrical or other disturbance; glare; or other substance, condition or element in such amount as to adversely affect the surrounding area; provided that any use permitted by this ordinance may be undertaken and maintained in IG and WM districts if it conforms to the regulations of this subsection limiting dangerous and objectionable elements at the specified point or points of the determination of their existence.

**6.5.2 Fire and Explosion Hazards.**

All manufacturing, processing, handling and storage of inflammable and explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion, adequate fire fighting and fire suppression equipment and any safety devices standard to the industry. Burning of waste materials in open fires is prohibited.

**6.5.3 Radioactivity or Electrical Disturbance.**

No activities shall be permitted which emit dangerous radioactivity or electrical disturbance which adversely affects the operation of any equipment.

**6.5.4 Noise.**

At the points of measurement, the maximum sound pressure level radiated in each standard octave band by any use or facility (other than temporary construction work) shall not exceed the values for octave bands lying within the several frequency limits given in Table 1, after applying the corrections shown in Table 2. The sound pressure level shall be measured with a sound level meter and associated octave band analyzer conforming to standards prescribed by the American Standards Association.

**NOISE TABLE 1**

<b>Frequency Ranges Containing Standard Octave Bands in Cycles Per Second</b>	<b>Octave Band Sound pressure level in Decibels are 0.0002 dyne/cm*</b>
20-300	60
300-2,400	40
above 2,400	30

\*If the noise is not smooth and continuous and is not radiated between the hours of 9:00 p.m. and 7:00 a.m. one or more of the corrections in Table 2 shall be applied to the octave band levels given in Table 1.

**NOISE TABLE 2**

<b>Type or Location of Operation or Character of Noise</b>	<b>Correction in Decibels</b>
Daytime operation only	5
Noise source operates less than:*	
a. 20 percent of any 1-hour period;	5
b. 5 percent of any 1-hour period.	10
Noise of impulsive character (hammering, etc.)	-5
Noise of periodic character (hum, screech, etc.)	-5
Property located in IG district and not within 500 feet of any R district	10

\* Apply one correction only

**6.5.5 Vibration.**

No vibration shall be permitted which is detectable without instruments at the point of measurement specified above.

**6.5.6 Glare.**

No direct or sky-reflected glare, whether from floodlights or from high-temperature processes such as combustion or welding or otherwise, which is visible at the points of measurement specified above shall be permitted. This restriction shall not apply to signs permitted by this ordinance.

**6.5.7 Air Pollution.**

No emission shall be permitted from any chimney or otherwise, of visible grey smoke of a shade equal to or darker than No. 2 on the Power's Micro-Ringelmann Chart (published by McGraw-Hill Publishing Company, Inc., copyright 1954); except that visible grey smoke of a shade equal to No. 3 on said chart may be emitted for four (4) minutes in any thirty (30) minute period. No emission shall be permitted of odorous gases or other odorous matter in such quantities as to be readily detectable without instruments. No emission of fly ash, dust, fumes, vapors, gases or other forms of air pollution shall be permitted which can cause any damage to health, animals, vegetation, or other forms of property, or which can cause any excessive soiling.

**6.5.8 Water Pollution.**

No discharge of material to a watercourse, water body or open drainageway shall be permitted where such material will affect the quality of the water in a manner bringing it below the latest standards for Class B, as adopted by the Commonwealth of Massachusetts Water Resources Commission, Division of Water Pollution Control. No material having or likely to have an adverse effect on water quality within the limits defined above shall be discharged through a sewer or drain which does not connect with a treatment facility capable of removing such material. Nothing in the foregoing provisions shall limit the continued operation of existing establishments where such establishments are pursuing a systematic program of pollution abatement consistent with state and/or federal time schedules.

### **6.5.9 Enforcement.**

Any application for a building permit for a use subject to performance standards shall be accompanied by a sworn statement by the owner of subject property that said use will be operated in accordance with the performance standards set forth herein. Continued compliance with these performance standards is required and shall be enforced. The determination of the existence of any dangerous and objectionable elements (as enumerated above) shall be made: For fire and explosion hazards, radioactivity and electrical disturbances, smoke and other forms of air pollution: At the point or points where such elements shall be most apparent; For noise, vibration, glare, and odors: At or beyond the property lines of the use creating such elements, wherever the effect is greatest.

## **6.6 LANDSCAPING REQUIREMENTS**

### **6.6.1 Purposes.**

This section is designed to accomplish the following objectives:

1. To provide a suitable boundary or buffer between residential uses and districts and nearby nonresidential uses;
2. To separate different and otherwise incompatible land uses from each other in order to partially or completely reduce potential nuisances such as dirt, dust, litter, noise, glare from motor vehicle headlights, intrusion from artificial light (including ambient glare), or view of signs, unsightly buildings or parking lots;
3. To provide visual relief to parking lots and protection from wind in open areas;
4. To preserve or improve the visual and environmental character of Holyoke, as generally viewed from residential or publicly accessible locations; and
5. To offer property owners protection against diminution of property values due to adjacent nonresidential use.

### **6.6.2 Applicability.**

The requirements of this section shall apply to:

1. Any nonresidential use which adjoins or abuts any residential use or district;
2. Any nonresidential use which adjoins or abuts any educational use;
3. Any multifamily parking facility which adjoins or abuts any residential use or district;
4. Any nonresidential or multifamily area used for loading;
5. Any nonresidential or multifamily area used for open or semi-enclosed storage.

### **6.6.3 Requirements.**

The property line(s) separating residential uses or districts shall be adequately screened from the uses specified in Section 6.6.2 by means of vegetation, plantings, or fencing, to be provided and maintained by the owner of the property used for nonresidential or multifamily purposes.

### **6.6.4 Coordination with Site Plan Approval.**

The Planning Board shall not approve a site plan unless the Board has determined that the application complies in all respects with the requirements of this section.

### **6.6.5 Maintenance.**

The owner of the property used for nonresidential or multifamily purposes shall be responsible for the maintenance, repair and replacement of all landscaping materials installed in accordance with this section. All plant materials required herein shall be maintained in a healthful condition. Dead limbs, refuse and debris shall be promptly removed. Bark mulch and non-plant ground surface materials shall be maintained so as to control weed growth. Dead plantings shall be replaced with new live plantings at the earliest appropriate season. Fences or walls shall be maintained in good repair and presentable appearance, or replaced.

## SECTION 7.0 SPECIAL REGULATIONS

### 7.1 REGULATIONS FOR SPECIFIC USES AVAILABLE AS OF RIGHT

In addition to all other provisions of this ordinance governing the use and arrangement of premises, the following supplemental regulations shall apply in certain instances to specific uses available as of right, as prescribed below:

#### 7.1.1 Hospital, nursing home.

1. No building for such use shall be located within 50 feet of any R1 or R-1A district.
2. The dimensional requirements in the following table shall apply in the districts indicated:

DISTRICT	RA	R-2	RM20 and RM40
Minimum lot size	20,000 sq. ft. plus 1,000 sq. ft. for each bed over 10	15,000 sq. ft. plus 1,000 sq. ft. for each bed over 15	10,000 sq. ft. plus 500 sq. ft. for each bed over 20
Minimum setback from all lot lines	50 ft.	35 ft.	20 ft.

3. All requirements in the table of dimensional regulations, section 5-2, shall apply where not superseded by the above. The city council may grant a special permit for a hospital or accessory building to a hospital structure to exceed the height regulations imposed by the schedule of dimensional controls, in accordance with the following standards:

- a. The increased height will not be deleterious to use and enjoyment of surrounding properties;
- b. The general character and aesthetic quality of the vicinity will not be detrimentally altered by the increased height;
- c. A landscaping buffer shall be provided between the structure and any abutting residential uses.

4. All requirements in the table of dimensional regulations, section 5-2, shall apply where not superseded by the above.

5. Hospitals and their accessory buildings and uses. The term accessory building or use as to hospitals shall include but not be limited to medical office buildings and all buildings, structures, facilities and uses associated with, related to or supportive of the services provided by such institutions, whether or not such accessory uses or buildings are themselves required to be licensed as hospitals by the commonwealth. Accessory parking lots, including those situated on the principal parcel, shall require a special permit of the City Council, which special permit shall follow the provisions set forth in Section 6.1.7.1, Special Permit for Parking On Adjacent and Nearby Parcels, except that the application shall be submitted to, and the review and decision made by the City Council. Accessory parking lots shall only be allowed in zones where hospitals are allowed, as found in Section 4.3 Table of Principal Uses. Structures designed to serve these institutions and their accessory uses and buildings are allowed whether or not a fee is charged for their use. Ownership and operation of a hospital or any of its accessory uses or buildings may be on a nonprofit or a for-profit basis and as a public or private enterprise and by the owner thereof or by any other person or entity under any arrangement whatsoever, including without limitation a lease, a license, a franchise, a management agreement, or an affiliation agreement.



6. The provisions of subsection 4.4.4, governing location of accessory structures, shall not apply to hospital structures.

#### **7.1.2 Motels, Overnight Cabins.**

1. Each unit shall have at least one room with not less than 150 square feet of floor area and a bathroom of not less than twenty-five (25) square feet of floor area.
2. Normal auxiliary uses are permitted on the same lot, including a swimming pool, office, eating facilities for the guests and permanent living quarters for one family.
3. The following minimum dimensions shall apply:
  - Lot area: 2 acres.
  - Frontage: 200 feet.
  - Lot depth: 200 feet.
  - Front yard: 50 feet.
  - Rear yard: 30 feet.
  - Side yard: 30 feet.
4. There shall be a minimum of 500 square feet of lot area for every unit.

#### **7.1.3 Outdoor Recreation Facility (Golf Course, Ice Skating Rink, Ski Area, Bathing Beach, Swimming Pool, Picnic Grove, Shooting Range, Canoe Club).**

1. All outdoor recreation facilities shall be located on lots of not less than one acre in area and 150 feet in depth, unless greater areas or distances are required elsewhere in this ordinance.
2. No structure shall be located within a hundred (100') feet of any property line.
3. Unenclosed recreational facilities shall be located not less than fifty (50') feet from any property line and shall be effectively screened from the view of adjoining residential uses.
4. Illuminated signs and other lights shall be directed away or shielded from adjoining residential uses.
5. No public address system shall be permitted except where such system is inaudible at the property line.
6. In the case of a commercial outdoor recreation facility, retail sales which are strictly ancillary to the principal use are permitted, provided there is no evidence of such sales activities when the premises is viewed from the property line, and provided that such sales do not occupy more than five (5%) percent of the area of the premises.
7. In the case of an outdoor recreation area not operated for gain, the provisions governing retail sales for membership clubs, civic, social, professional or fraternal organizations shall apply.
8. Drive-in theaters are not permitted in any district.

#### **7.1.4 Business and Commercial Uses.**

1. In cases where two (2) or more attached retail, service, office, eating or drinking establishments, or other combination of permitted business or commercial uses, are designed or intended for more than one ownership, side yards between ownerships are not required, provided:
  - a. The complex is planned and constructed as one entity and at the same time.
  - b. Interior side lot lines are coincident with party walls.
  - c. The normal side yard is provided at each end of the complex.
  - d. All lots comply with all other dimensional requirements set forth in this ordinance. With the approval of the Planning Board, a complex of existing units or a proposed expansion of an existing building unit may be divided in conformance with provisions (b) through (d) above.
2. Financial institutions in RO districts shall not exceed two (2) stories.

#### **7.1.5 Commercial Parking Lot or Garage (for the storage of motor vehicles).**

1. Commercial parking lots or garages with a capacity of less than twenty-five (25) vehicles shall not be established.
2. Access points to such facilities shall be limited to well-defined locations, and in no case shall there be permitted unrestricted access (such as continuous curb cuts) along the length of the street or alley upon which the parking area abuts.

3. Commercial parking lots shall not be located within ten (10') feet of a street line, or within five (5') feet of any other lot line.
4. The setback of commercial parking garages or structures shall be in accordance with normal dimension controls for the district(s) in which they are located except that no such structure shall be located within thirty (30') feet of any residence district.
5. Commercial parking lots shall be separated from adjacent residence districts by a buffer of plant or other suitable screening material.
6. Those facades of commercial parking garages or structures which face streets and residence districts shall be finished with curtain walls of decorative material of sufficient density to obscure the vehicles parked within the structure.
7. Illuminated signs and other lights shall be directed away or shielded from adjacent residence districts.

### **7.1.6 Drive-Thru Facility or Use with Drive-Thru Service**

#### **7.1.6.1 Purpose**

The purpose of this section is to protect the safety, public health, convenience and general welfare of the inhabitants of the City of Holyoke by providing detailed review of the design and layout of drive-thru facilities which have a substantial impact upon the character of the City of Holyoke and upon traffic, utilities and services therein, while ensuring public safety and mitigating the associated impacts.

#### **7.1.6.2 Applicability**

Drive-thru facilities are commercial facilities which provide a service directly to a motor vehicle or where the customer drives a motor vehicle onto the premise and to a window or mechanical device through or by which the customer is serviced without exiting the vehicle. Uses may include restaurants, retail establishments, pharmacies, financial institutions, and automatic teller machines (ATM). This shall not include the selling of fuel at a gasoline filling station or the accessory functions of a carwash facility such as vacuum cleaning stations, or services at a municipal authority. Drive-thru facilities shall be allowed with a Special Permit of the City Council on parcels of land within the BL, BC, BG, BH, BE, IG and SC zones.

#### **7.1.6.3 Drive-Through Facilities Standards:**

1. The width of the driveway access at the property line of the development shall not exceed 22 feet, unless the traffic impact study identifies, and the Department of Public Works approves, the need for wider access.
2. A system of joint use driveways and cross access easements shall be established wherever feasible along (name road or overlay corridor) and the proposed development shall incorporate the following:
  - a. A service drive or cross access corridor extending the width of the parcel.
  - b. Stub-outs and other design features to make it visually obvious that the abutting properties may be tied in to provide cross-access via a service drive.
3. Minimum Stacking Requirements by type of use
  - a. Restaurants and other food establishment drive-through facilities shall provide no less than eight (8) stacking spaces within the site at or behind the order board. The facility shall provide another four (4) stacking spaces between the order board and the transaction window. If the facility has two transaction windows the (4) four stacking spaces may be split between each of the windows. An additional stacking space shall be provided after the last transaction window(s).
  - b. Retail establishments such as pharmacies, service facilities or similar shall provide no less than five (5) stacking spaces within the site at or behind the transaction window.
  - c. Financial Institutions shall provide no less than four (4) stacking spaces within the site at or behind the transaction window or pneumatic tube.
  - d. Freestanding automatic teller machines (ATM) with drive-through service shall provide no less than four (4) stacking spaces within the site at or behind the transaction window.
4. Each stacking space shall be a minimum of twenty (20) feet in length and ten (10) feet in width along straight portions. Stacking spaces and stacking lanes shall be a minimum of twelve (12) feet in width along curved segments. Stacking lane width may be reduced by the provision of a pass-by lane fit for adequate travel.

5. Stacking lanes shall be delineated from traffic aisles, other stacking lanes and parking areas with striping, curbing, landscaping and the use of alternative paving materials or raised medians.
6. Entrances to stacking lane(s) shall be clearly marked.
7. Stacking lanes shall be designed to prevent circulation congestion, both on site and on adjacent public streets. The circulation shall: (a) separate drive-through traffic from site circulation, (b) not impede or impair access into or out of parking spaces, (c) not impede or impair vehicle or pedestrian traffic movement, and (d) minimize conflicts between pedestrian and vehicular traffic with physical and visual separation between the two. Stacking lanes shall not interfere with required loading and trash storage areas and loading or trash operations shall not impede or impair vehicle movement. If said separate stacking lane is curbed, an emergency by-pass or exit shall be provided.
8. The intersection of stacking lanes and walk-in customer access shall be separate from any driveway access and/or transaction windows. Said intersections shall be provided with a crosswalk. These crosswalks shall use enriched paving and striping and include warning signage aimed at both the pedestrian and vehicle.
9. Any outdoor service facilities (including menu boards, speakers, etc.) shall be a minimum of one hundred (100) feet from the property line of residential uses, except that facilities may be located up to fifty (50) feet from a residentially used structure if screened from adjoining properties in the residence district by plant or other suitable material.
10. Menu boards shall be a maximum of thirty square feet, with a maximum height of six (6) feet in height and shall be shielded from any public street and residential properties.

#### **7.1.6.4 Traffic Impact Study**

1. A detailed traffic impact analysis shall be submitted for any special permit or site plan approval application containing a drive-through facility. A MA Registered Transportation Engineer shall prepare the traffic impact study. The traffic impact study shall contain the information required in Section 10.1.6.3 – Traffic Impact Study, a through h.

#### **7.1.6.5 Submittal requirements and review procedure.**

1. Once the application is received by the City Clerk, a copy of the application shall be forwarded to the Planning Board and the Department of Public Works for review and comment. A public hearing for the Special Permit shall be held in accordance with Section 9.3 of the City of Holyoke Zoning Ordinance.
2. The following documents must be provided at the time of the special permit application:
  - a. Two completed original applications and required fee, as defined in Section 9.3.6 of the City of Holyoke Zoning Ordinance.
  - b. Seven (7) copies of Site Plan drawn to scale (2 - Departments; 5 - Committee). These plans shall include the following:
    - i. Site circulation plan including drive-thru features.
    - ii. Total lot area in square feet and proposed coverage area.
    - iii. Lighting, drainage, and landscaping or buffer plans.
    - iv. In addition, the submittal documents shall be provided in a digital format.
  - c. Departments will be given at least 21 days, after the application is received by the City Clerk and forwarded, to respond back to the City Council.
3. A new special permit must be obtained in accordance with this section when there is any change in use as per Section 7.1.6.3.3.

#### **7.1.7 Industrial Uses in Industrial Districts.**

1. Standards for Industrial Park Districts.
  - a. No building shall be constructed, no material shall be stored in the open, and no loading or off-loading shall be conducted within a hundred (100') feet of any abutting residence district. No parking lot shall be placed within a hundred (100') feet of any residence district unless completely screened from the view of such district by appropriate planting, and in no case shall any parking lot be placed within fifty (50') feet of any residence district.

- b. Within the buffer area provided above, natural vegetal cover shall be maintained in all cases, unless such cover becomes injurious or threatens to become injurious to the abutting residence district. Where the natural vegetal cover does not provide effective screening of the industrial operation, suitable plant material shall be introduced to provide such screening, one-half (1/2) the cost of which shall be borne by the owner and/or developer and one-half (1/2) by the city.
- c. A minimum of two-thirds (2/3) of the square foot area within the front yards of all buildings shall be provided with lawn or otherwise suitable landscaping.
- d. To avoid unattractive appearance which may result in poor resale value, to minimize maintenance and to maintain architectural integrity, the exterior walls of buildings shall be finished with brick, or materials of equal attractiveness and durability.

2. Standards for General Industry Districts.

- a. Concurrent with the application for a permit to build any industrial structure in an IG district there shall be filed with the Planning Board a copy of the site plan (see definition) of said development. Planning Board recommendation to the Building Commissioner and other appropriate local officials or bodies, or the elapse of thirty (30) days from the date of submission without such recommendation, shall be prerequisite to the granting of the permit.
- b. The Planning Board shall consider the following criteria in the review and evaluation of the site plan. These criteria are: conformance with all applicable local, state and federal laws; proposed integration into the existing terrain and the relationship to abutting properties and community amenities; architectural style and its harmony with the prevailing character in the neighborhood; adequacy of existing public utilities to serve the building or buildings; access to and from the site; protection of neighborhood from outside storage and compliance with all other provisions of the zoning ordinance.

**7.2 REGULATIONS FOR SPECIFIC USES AVAILABLE BY SPECIAL PERMIT**

In accordance with the provisions of Section 9.3, the City Council may issue a special permit for a use set forth in the Table of Principal Uses, subject to the general and specific requirements set forth below. Compliance with the following requirements and standards, as applicable, shall be insured before any special permit is granted. All pertinent regulations contained elsewhere in this ordinance shall govern unless expressly contradicted by the requirements and standards set forth below.

**7.2.1 Motor Vehicle Service Station.**

- 1. Pits and hoists shall be contained within the area of the building, and all washing, lubricating and repair work shall be carried on inside the building.
- 2. No sale and/or rental of motor vehicles, trailers, or boats will be permitted. Motor vehicle body and paint work will not be carried on the premises, and there will be no storage of wrecked vehicles.
- 3. Concurrent with the application for a special permit for a service station there shall be filed a site plan of the proposed service station. Within ten (10) days after receipt of the plan, the City Council shall transmit a copy thereof to the Planning Board. The Planning Board shall investigate the proposed layout and report in writing its recommendations to the City Council. The City Council shall not take final action until it has received a report from the Planning Board or until the Planning Board has allowed twenty (20) days to elapse after receipt of such plan without rendering a report.
- 4. No such facility shall be located on a lot measuring less than a hundred (100') feet by a hundred (100') feet.
- 5. Said lot is located in one (1) of the following zones: BG, BH, BE, SC, or IG.
- 6. No part of any such establishment shall be located within a hundred (100') feet of any residence district; except that facilities may be located up to fifty (50') feet from a residence district if screened from adjoining properties in the residence districts by plant or other suitable material.
- 7. Entrances or exits for vehicles shall not be within 200 feet as measured along the public street of a school, playground, church or related facility, library, museum, hospital, or nursing home.
- 8. Access and egress points shall be well defined, shall be located not less than fifty (50') feet apart and shall not be located within fifty (50') feet of similar points on adjacent properties or of the intersection of two (2) street

right-of-way lines.

9. No exterior oil draining pit, hoist or other visible appliance for any such purpose shall be located within twenty (20') feet of any property line.
10. Incidental sales and/or rental of motor vehicles, trailers or boats, if permitted, shall be governed by the applicable regulations for such use.

#### **7.2.2 Bulk Fuel, Oil, Gas, Coal Storage or Distribution Operation.**

Bulk fuel, oil, gas, coal storage and distribution operations as defined herein may be allowed by special permit granted by the City Council, subject to the following conditions:

1. No part of any such establishment shall be located within a hundred (100') feet of any residence district, conforming motel or indoor eating establishment.
2. Such uses, including vehicle storage areas, shall be screened from adjoining properties in residential districts by plant or other suitable material.
3. Tanks, piping or other storage facilities, when unenclosed and above the ground, shall be screened from view from the street and neighboring properties.
4. Entrances or exits for vehicles shall not be within 200 feet as measured along the public street of a school, playground, church or related facility, library, museum, hospital or nursing home.

#### **7.2.3 Advertising Blimps.**

Advertising blimps as defined herein may be allowed by special permit granted by the City Council, subject to the following conditions:

1. The advertising blimp shall be compatible with the surrounding neighborhood.
2. Only one (1) advertising blimp shall be allowed per parcel.
3. Size is restricted to 1,000 cubic feet.
4. Blimps must be securely tethered in a location away from trees, utilities, or other features in which the tether might become entangled.
5. Blimps shall not include and moving or flashing devices.
6. Blimps shall not be internally lit or have any electric cable attached thereto.
7. Height is limited to a distance which is equal to the distance from the footing of tether to within twenty-five (25') feet of the nearest property line.
8. No illumination of the blimp shall be allowed.

#### **7.2.4 Financial Institutions in Industrial Park Districts.**

Before granting any special permit for a financial institution in an IP zone, the City Council shall make the following findings:

1. The parcel on which the financial institution is to be located and for which the special permit is being sought must contain a minimum of five (5) acres provided however, that the special permit granting authority may grant a special permit for a parcel containing less than five (5) acres but not less than three (3) acres upon making the following specific findings:
  - a. A structure exists on the subject parcel which will be adapted to the use for which the special permit is being sought.
  - b. The reduced parcel size will not be deleterious to the use and enjoyment of surrounding properties.
  - c. The general character and aesthetic quality of the vicinity will not be detrimentally altered by the reduced parcel size.
  - d. All other pertinent zoning regulations will be adhered to.

#### **7.2.5 Flea Market.**

A special permit may be granted for a flea market in the following districts: RO, BL, BC, BG, BH and IG. A site plan must be submitted with the permit application and to the Planning Board for comments.

1. Vehicular access to flea market sites is not allowable from residential streets.
2. Overnight lodging on the premises is not allowed even if such lodging is free to booth operators.
3. Outdoor selling areas are not allowed within the setback areas.
4. Sales areas or buildings shall not be located within 300 feet of a residential district, except that facilities may be

located up to fifty (50') feet from a residential area if screened from adjoining properties by plant or other suitable material. Landscape screening must be provided along any lot boundary visible from (not necessarily abutting) any residential zone.

5. Adequate parking for the establishment will be required.

#### **7.2.6 Boarding Houses.**

A special permit may be granted for a boarding house containing rooms for more than four (4) boarders in the following districts: RM-20, RM-40, RM-60, DR, BH, BG and BL. The boarding house may be specially permitted where the City Council determines that the following conditions have been met:

1. There shall be no significant alteration of the building's exterior. This shall not include safety or general maintenance measures such as painting, etc.
2. Off-street parking will be screened from adjacent properties and shall not be allowed within front yard setbacks.
3. The boarding house is not located within 1,000 feet of another boarding house. This may be waived if the City Council determines that a waiver of this requirement will not have an adverse impact on the neighborhood.
4. Trash waste containers are to be enclosed and secured from entry and screened.
5. The Building Department, Fire Department, and Health Department certify that the premises reveals no violations of applicable ordinances, rules, regulations, laws or restrictions.
6. Fire prevention measures pursuant to M.G.L. 148, Chapter 26H, along with Chapter 2 State Sanitary Code 105 CMR 410.000 – 419.000 have been complied with.
7. A valid license from the Holyoke License Commission must be received prior to occupancy, pursuant to M.G.L. Chapter 140, Sections 21-31.

#### **7.2.7 Bed and Breakfast.**

A special permit may be granted for a bed and breakfast. Such special permit granted shall be valid for one (1) year from the date of issuance. The fee for such special permit shall be \$100.00; however, following three (3) consecutive years of operation, said permit shall be valid for two (2) years and be assessed a fee of \$150.00. Such special permit may be renewed, provided however, the premises are first inspected by an inspector from the City of Holyoke Department of Codes and Inspections and found to be in compliance with the above stated requirements and any other applicable ordinances, rules, regulations, laws or restrictions. The City Council may issue the permit for a bed and breakfast upon such conditions and limitations as are consistent with the zoning ordinance. In addition to such conditions and limitations, the permit for a bed and breakfast shall contain the following information: (i) number of rooms to be rented; (ii) signage requirements; (iii) off-street parking requirements; (iv) statement that only breakfasts may be served on the premises. The bed and breakfast may be specially permitted where the City Council determines that:

1. The building to be used for the bed and breakfast is a single family residence, except that if the building is listed on the historic inventory, the Holyoke Historic Commission and the Planning Board for the City of Holyoke have offered a recommendation on the intended use.
2. There shall be no significant alteration of the building's exterior. This shall not include safety or general maintenance measures such as painting, etc.
3. Off-street parking will be screened from adjacent properties and shall not be allowed within front yard setbacks.
4. The bed and breakfast is not located within 1,000 feet of another bed and breakfast. This may be waived if the City Council determines that a waiver of this requirement will not have an adverse impact on the neighborhood.
5. The only meal that may be provided to guests shall be breakfast and it would only be served to guests taking lodging at the facility.
6. Information and literature describing activities and cultural and historical events and landmarks in the City of Holyoke shall be prominently displayed for the benefit of guests.
7. Trash/waste containers are to be enclosed and secured from entry and screened.

#### **7.2.8 Adult Entertainment.**

Special permit for adult theaters, adult bookstores, adult video stores and adult dance clubs. The City Council may grant a special permit for adult theaters, adult bookstores, adult video stores and adult dance clubs in BG, BH and IG zones provided the following conditions are satisfied:

1. The property for the proposed use shall not be located within 500 feet of a residential use or district or, within 500 feet of a church or, within 1,000 feet of a school or park or, within 1,000 feet from any other adult theater, adult bookstore, adult video store or adult dance club.
2. The intended use is not incompatible with the surrounding neighborhood.

3. Off-street parking if required will be properly screened from adjacent properties.
4. The building to be used has adequate access and egress.

### **7.2.9 Third Dwelling Unit in an Existing Two-Family Dwelling.**

The City Council may grant a special permit to allow the owner of a two-family dwelling existing on April 1, 1986, and located in an R-2 (two-family residence) district, to expand that use by creating one (1) additional dwelling unit in accordance with the following requirements:

1. The applicant shall file with the City Council and the Building Commissioner a plan prepared by an architect registered in the Commonwealth of Massachusetts. Said plan shall show all proposed changes to the existing structure and shall be of sufficient detail to demonstrate that the altered structure will comply with all requirements of the state building code and this ordinance. The plan shall also be accompanied by a certification from the architect that all alterations, additions or improvements to the existing structure will conform to the "State Building Code of the Commonwealth of Massachusetts." The Building Commissioner shall review the plans and within twenty (20) days submit to the City Council any recommendations he may have on the proposed alterations.
2. The parcel of land for which the special permit is being requested shall contain at least 6,000 square feet of area.
3. Two (2) additional off-street parking spaces shall be provided on the premises. In no case shall these additional parking spaces be allowed within the front yard setback area. The City Council may reduce the number of additional off-street parking spaces for the premises. This reduction may only occur if, in the opinion of the City Council, it will not be detrimental to the public good. In no case may the reduction result in the total number of spaces being less than five (5).
4. The special permit shall not be granted unless it is the judgment of the City Council that it can be granted without substantial detriment to the public good and without derogating from the purpose of this ordinance.

### **7.2.10 Reserved.**

### **7.2.11 Motor car race tracks, speedways; Horse and Dog race tracks and Permanent Outdoor concert facilities.**

Criteria used to determine whether a special permit should be granted are:

1. Proper access and egress and internal circulation.
2. Traffic impacts to the surrounding neighborhood.
3. Noise levels are reasonable and conducive to the surrounding neighborhood.
4. Structures or facilities are not within 2,000 feet of a residential, educational, church or municipal structure.

### **7.2.12 Commercial Storage Containers.**

The City Council may grant a Special Permit for the use of a temporary storage unit beyond sixty (60) days or for the use of multiple units, upon showing of good cause or extenuating circumstances by the applicant justifying an extension, as well as compliance with this and any other applicable ordinance, rule, regulation, law or restriction. The fee for such Special Permit shall be \$100.00 and the permit shall be valid for the time specified by the City Council.

All temporary storage units must comply with the provisions of Section 4.4.10.

### **7.2.13 Outdoor sales lots for new and used motor vehicles and trucks, and marine and recreational vehicles.**

A special permit may be granted by the City Council for outdoor sales lots for motor vehicles, marine and recreational vehicles, and similar sales subject to the following conditions:

1. Said lot is located in a BH, IG, or BE district.
2. Access and egress points shall be well defined and have sufficient width. Fourteen (14) feet of access onto the property for safety purposes shall be shown on plans in accordance with the Holyoke Zoning Ordinance.
3. Said lot must contain a permanent building, containing a foundation and meeting the State Building Code, within reasonable means.
4. The entire sales lot and off street parking area must be paved and a perimeter curb or barrier must be provided to prevent encroachment of the vehicles for sale into the required setback and landscaped areas. This section must be met prior to receiving the Special Permit.

5. The maximum number of motor vehicles for sale on a lot shall be the number which is the result of dividing the usable square feet of sale area by three hundred ten (310) to include allowance for setbacks and access. Indoor storage and sales areas shall not be included in this measurement and will be determined separately. If the applicant is applying for an auto repair license, the Planning Department must review both applications before the license is issued to meet this section for customer parking, employee parking and the total number of vehicles on the lot.
6. In the case of sales of marine or recreation vehicles, no stacking shall exceed the height limit for the zone.
7. All signage must be in accordance with standards set forth in the City of Holyoke Zoning Ordinance.
8. All motor vehicle sales lots shall buffer the activities from adjacent parcels by landscaping or other buffering materials. Preferred materials shall be decorative fencing and/or vegetative material to beautify the property. Landscape plans shall be forwarded to the Planning Board for review.
9. All outdoor lighting shall be directed so that it does not shine or spill onto adjacent properties.
10. The architectural appearance and functional plan of the building and site may not be so dissimilar to the existing buildings or area as to cause impairment in property values or constitute a blighting influence within a reasonable distance of the lot.
11. Adequate customer parking must be provided in off-street parking spaces in accordance with the City of Holyoke Zoning Ordinance as set forth below. The employee and customer parking shall be clearly designated and shall not be used for the parking, storage, or display of motor vehicles, for sale, rental, or hire.

Customer Parking

Total number of vehicles permitted Per special permit	Customer spaces required
Up to 25	2
25-50	3
51-75	4
76-100	5
101-150	6
151-200	7
201-250	8
251-300	9

Spaces for employees shall be computed at the rate of 2 spaces for each 3 employees in the maximum working shift (full or part-time)

12. All facilities issued a special permit pursuant to this section shall utilize a bulk waste container in compliance with Chapter 74 of the City of Holyoke Code of Ordinances, the location of which shall be displayed on the site plan.
13. No outdoor stock piling of parts shall be permitted
14. All vehicles and equipment must be in operational condition.
15. When other uses exist on the property, the entire property must comply with all relevant ordinances for each use.
16. All owners and lessees or tenant of properties under this section, must comply with all other state and local regulations, including, but not limited to those in relation to parking on sidewalks, snow removal into public ways, and utilizing public property.
17. The following documents must be provided at the time of the special permit application:
  1. Completed application and fee.
  2. Five (5) copies of Site plan drawn to scale. If the proposal calls for more than twenty (20) sales spaces, said plans shall be prepared by a registered surveyor, engineer or architect. These plans shall include the following:
    - i. Parking layout plan showing both sales vehicle locations and off street parking spaces for employees and customers.
    - ii. Total lot area in square feet and proposed coverage area.
    - iii. Lighting, drainage, bulk waste container (dumpster) location, and landscaping or buffer plans.
    - iv. Location of landscaping and buffering.
  3. All departments will be given at least 21 days, after the application is received by the City Clerk and forwarded, to respond to the City Council.



4. A report from the Planning Department, declaring the maximum number of vehicles intended for display must be provided at the time of the public hearing.
18. *Review Procedure.* Once the application is received by the City Clerk, a copy of the application shall be forwarded to the Planning Board, Health Department, Building Department, and Fire Department for review. The application will not be considered complete until the application packet (including drawings, department head comment letters, and inspections) are complete and have been reviewed by the Planning Department. Once the application is deemed complete it will be submitted to the City Council. A public hearing for the Special Permit shall be held in accordance with section 9.3 of the City of Holyoke Zoning Ordinance.
19. *License required.* After receiving a Special Permit from the City Council, a license to operate the outdoor sales lot for one year must be obtained from the License Commission.
20. All licenses that are valid on the date of passage of this ordinance and that are renewed for the same address and by the same licensee are hereby “grand fathered” from compliance with this ordinance. Any change, either in the owner, lessee, tenant or in the location of the license, must comply with the provisions of this ordinance.
21. Any legally grandfathered licensee in compliance with this Section shall be allowed to extend the licensed use onto a contiguous parcel of land, and shall be required to comply with 7.2.13 (5) above in regards to the number of vehicles allowed on the property being added only. This Section shall not be applicable to the pre-existing portion of the sales lot.
22. Any violation of any provision of this ordinance shall result in penalties as prescribed by the City of Holyoke Code of Ordinances, and local, state and federal laws, up to and including, revocation of the license.
23. Fees. The fee for such special permit shall be \$500 per applicant.

**7.2.13(a) Motor Vehicle Repair Garage.**

A special permit may be granted by the City Council for a motor vehicle repair garage subject to the following conditions:

1. Said property is located in a BG, BH, BE or IG district.
2. Access and egress points shall be well defined and have sufficient width Fourteen (14) feet of access onto the property for safety purposes shall be shown on plans in accordance with this Ordinance.
3. All repairs shall be conducted inside a permanent building, which meets all State Building Code requirements for the use.
4. The entire off street parking area must be paved and a perimeter curb or barrier must be provided to prevent encroachment of the vehicles for sale into the required setback and landscaped areas. This section must be met prior to receiving the Special Permit.
5. The maximum number of motor vehicles for repair on a lot shall be the number which is the result of dividing the usable square footage of repair area by three hundred ten (310) to include allowance for setbacks and access.
6. Adequate parking spaces for vehicles being repaired, customers and employees parking must be provided in off-street parking spaces as follows:
  - a. 4 spaces for every service bay; and
  - b. 2 spaces for each 3 employees in the maximum working shift.
 The employee and customer parking shall be clearly designated and shall not be used for the parking, storage, or display of motor vehicles being repaired.
7. All motor vehicle repair garages shall buffer the activities from adjacent parcels by landscaping or other buffering materials. Preferred materials shall be decorative fencing and/or vegetative material to beautify the property. Landscape plans shall be forwarded to the Planning Department for review.
8. All outdoor lighting shall be directed so that it does not shine or spill onto adjacent properties.
9. All facilities issued a special permit pursuant to this section shall utilize a bulk waste container in compliance with Chapter 74 of the City of Holyoke Code of Ordinances, the location of which shall be displayed on the site plan.
10. No outdoor stock piling of parts shall be permitted
11. All signage must be in accordance with standards set forth in the City of Holyoke Zoning Ordinance.
12. All owners and lessees or tenant of properties under this section, must comply with Section 22-131 of the Holyoke Code of ordinances and with all other state and local regulations, including, but not limited to those in relation to parking on sidewalks, snow removal into public ways, and utilizing public property.
13. The architectural appearance and functional plan of the building and site may not be so dissimilar to the existing buildings or area as to cause impairment in property values or constitute a blighting influence within a reasonable distance of the lot.
14. When other uses exist on the property, the entire property must comply with all relevant ordinances for each use.
15. *Application.* The following documents must be provided at the time of the special permit application:
  - a. Completed application and fee.

- b. Proof of registration with the Massachusetts Department of Environmental Protection as a hazardous waste generator in accordance with Section 22-131 of the Code of Ordinance.
  - c. Five (5) copies of Site plan drawn to scale. These plans shall include the following:
    - i. Parking layout plan showing off street parking spaces for vehicles to be repaired, employees, and customers.
    - ii. Total lot area in square feet and proposed coverage area.
    - iii. Lighting, drainage, bulk waste container (dumpster) location, and landscaping or buffer plans.
    - iv. Location of landscaping and buffering.
  - d. All departments will be given at least 21 days, after the application is received by the City Clerk and forwarded, to respond to the City Council.
  - e. A report from the Planning Department, declaring the maximum number of vehicles allowed must be provided at the time of the public hearing.
16. *Review Procedure.* Once the application is received by the City Clerk, a copy of the application shall be forwarded to the Planning Department, Health Department, Building Department, and Fire Department for review. The application will not be considered complete until the application packet (including drawings, department head comment letters, and inspections) are complete and have been reviewed by the Planning Department. Once the application is deemed complete it will be submitted to the City Council. A public hearing for the Special Permit shall be held in accordance with section 9.3 of the City of Holyoke Zoning Ordinance.
17. *License required.* After receiving a Special Permit from the City Council, a license to operate the motor vehicle repair garage for one year must be obtained from the License Commission.
18. A new special permit must be obtained in accordance with this section when there is any change in the owner, lessee, tenant or in the location of the business.
19. Any violation of any provision of this ordinance shall result in penalties as prescribed by the City of Holyoke Code of Ordinances, and local, state and federal laws, up to and including, revocation of the license.
20. *Fees.* The fee for such special permit shall be \$250 per applicant.

**7.2.13 (b) Motor vehicle body repair or paint shop.**

A special permit may be issued by the City Council for a motor vehicle body repair or paint shop subject to the following conditions:

- 1. Said property is located in a BH, BE or IG district.
- 2. Access and egress points shall be well defined and have sufficient width Fourteen (14) feet of access onto the property for safety purposes shall be shown on plans in accordance with this Ordinance.
- 3. All work shall be conducted inside a permanent building, which meets all State Building Code requirements for the use.
- 4. The entire off street parking area must be paved and a perimeter curb or barrier must be provided to prevent encroachment of the vehicles for sale into the required setback and landscaped areas. This section must be met prior to receiving the Special Permit.
- 5. The maximum number of motor vehicles for body repair or painting on a lot shall be the number which is the result of dividing the usable square footage of repair or painting area by three hundred ten (310) to include allowance for setbacks and access.
- 6. Adequate parking spaces for vehicles being repaired, customers and employees parking must be provided in off-street parking spaces as follows:
  - a. 4 spaces for every service bay; and
  - b. 2 spaces for each 3 employees in the maximum working shift.
 The employee and customer parking shall be clearly designated and shall not be used for the parking, storage, or display of motor vehicles being repaired.
- 7. All motor vehicle body repair or paint shops shall buffer the activities from adjacent parcels by landscaping or other buffering materials. Preferred materials shall be decorative fencing and/or vegetative material to beautify the property. Landscape plans shall be forwarded to the Planning Department for review.
- 8. All outdoor lighting shall be directed so that it does not shine or spill onto adjacent properties.
- 9. All facilities issued a special permit pursuant to this section shall utilize a bulk waste container in compliance with Chapter 74 of the City of Holyoke Code of Ordinances, the location of which shall be displayed on the site plan.
- 10. No outdoor stock piling of parts shall be permitted
- 11. All signage must be in accordance with standards set forth in the City of Holyoke Zoning Ordinance.
- 12. All owners and lessees or tenant of properties under this section, must comply with must comply with Section 22-131 of the Holyoke Code of ordinances and all other state and local regulations, including, but not limited to those in relation to parking on sidewalks, snow removal into public ways, and utilizing public property.

13. The architectural appearance and functional plan of the building and site may not be so dissimilar to the existing buildings or area as to cause impairment in property values or constitute a blighting influence within a reasonable distance of the lot.
14. When other uses exist on the property, the entire property must comply with all relevant ordinances for each use.
15. *Application.* The following documents must be provided at the time of the special permit application:
  - a. Completed application and fee.
  - b. Proof of registration with the Massachusetts Department of Environmental Protection as a hazardous waste generator in accordance with Section 22-131 of the Code of Ordinance.
  - c. Documentation of the fire suppression system in the painting booth (paint shops only).
  - d. Five (5) copies of Site plan drawn to scale. These plans shall include the following:
    - i. Parking layout plan showing off street parking spaces for vehicles to be repaired, employees and customers.
    - ii. Total lot area in square feet and proposed coverage area.
    - iii. Lighting, drainage, bulk waste container (dumpster) location, and landscaping or buffer plans.
    - iv. Location of landscaping and buffering.
  - e. All departments will be given at least 21 days, after the application is received by the City Clerk and forwarded, to respond to the City Council.
  - f. A report from the Planning Department, declaring the maximum number of vehicles allowed must be provided at the time of the public hearing.
16. *Review Procedure.* Once the application is received by the City Clerk, a copy of the application shall be forwarded to the Planning Department, Health Department, Building Department, and Fire Department for review. The application will not be considered complete until the application packet (including drawings, department head comment letters, and inspections) are complete and have been reviewed by the Planning Department. Once the application is deemed complete it will be submitted to the City Council. A public hearing for the Special Permit shall be held in accordance with section 9.3 of the City of Holyoke Zoning Ordinance.
17. *License required.* After receiving a Special Permit from the City Council, a license to operate the motor vehicle body repair or paint shop for one year must be obtained from the License Commission.
18. A new special permit must be obtained in accordance with this section when there is any change in the owner, lessee, tenant or in the location of the business.
19. Any violation of any provision of this ordinance shall result in penalties as prescribed by the City of Holyoke Code of Ordinances, and local, state and federal laws, up to and including, revocation of the license.
20. *Fees.* The fee for such special permit shall be \$250 per applicant.

**7.2.13(c) Multiple motor vehicle uses.**

Whenever more than one motor vehicle use requiring a special permit under section 7.2.13 exists on one property, the City Council shall require, in addition to the requirements set forth above:

1. That each use be clearly delineated on the plan submitted with the application by showing what portion of the property is devoted to each use and what parking spaces are devoted to each use; and
2. That proof of the number of cars allowed for each use on the property be provided.

In any case where there is more than one such use existing on one property, the total number of cars allowed for all the uses shall not exceed the number that would be allowed if the property was devoted entirely to one use.

**7.2.14 Refuse Transfer Station**

A Special Permit shall be granted by the City Council for a refuse transfer station in accordance with M.G.L. Ch 40A, Section 9. The special permit may impose reasonable conditions upon the construction or operation of the facility taking into consideration the criteria enumerated on Section 9.3.2 of this ordinance.

## **7.3 REMOVAL OF EARTH MATERIALS**

### **7.3.1 General.**

No such excavation shall begin until a special permit is issued by the City Council. Concurrent with the application for such a permit, there shall be submitted six (6) copies of a plan and informational report of the premises proposed to be excavated with the following information:

1. The location of the proposed excavation, the legal name and address of the property owner, and the legal name and address of the applicant.
2. The names and addresses of all abutting property owners and property owners within 500 feet of any lot line, including owners on the opposite side of any streets.
3. A plan of the land involved, plus a strip a hundred (100') feet wide surrounding said land, prepared by a Registered Land Surveyor or Professional Engineer, showing all existing and proposed built features (including signs, parking, lighting, fencing and access gates), property lines, access and public roads, vegetative cover, water courses and water bodies, floodplains, wetlands, drainage swales or other drainage structures, maximum high groundwater elevation, direction of groundwater flow, rate of groundwater flow, private and public wells, and soil and bedrock characteristics. Existing topography and proposed finish grade contours after completion of the proposed excavation shall be shown at two (2') foot intervals.
4. The estimated quantity of material to be removed or added to the site, and the estimated quantity of topsoil and subsoil to be stripped, stockpiled, and replaced during restoration.
5. A plan for erosion and sediment control during excavation activities.
6. The approximate date of operational commencement and the anticipated duration of the operation.
7. Proposed daily operational times.
8. The equipment to be used on site and the number and type of vehicle trips per day during hauling.
9. Measures proposed for mitigating potential noise, dust, visual impacts, and other hazardous waste or emissions emanating from the site.

### **7.3.2 Security.**

A performance bond, in an amount determined by the City Council or consultant to the City Council in consultation with the Building Commissioner, shall be posted by tile applicant prior to the issuance of a special permit to ensure the satisfactory compliance with the conditions of this ordinance, especially the conditions for restoration of the site. This bond shall be posted with the Building Commissioner and the Building Commissioner shall be responsible for all enforcement and monitoring of said bond. This bond shall not be released until the applicant has certified in writing and the City Council or its designated consultant in consultation with the Building Commissioner has determined that all conditions of this ordinance have been met and that the restoration of the site has been completed in compliance with the special permit and the restoration plan.

### **7.3.3 Procedures.**

Within four (4) days of the receipt of the application for special permit under this ordinance, the City Council shall transmit a copy of the application, site plan, and informational report to the Planning Board, Board of Appeals, Conservation Commission, Historical Commission, Building Commissioner, and City Engineer for their comments. After due notice the City Council shall hold a public hearing on the petition for a special permit. Such notice and hearing shall be in accordance with the requirements of G.L. c. 40A, s. 11. Special permits issued under this section shall be valid for five (5) years from the date of issue. This permit may be renewed by the City Council for an additional five (5) year period after review of the repermitting application and the compliance history of the applicant with the original permit and any subsequent permits. The council may ask the applicant for additional information as needed. An application for repermitting shall consist of the same information as required for the original permit plus site plant showing excavation and extraction activities to date, new areas where such activities are planned, and current site restoration plans.

### **7.3.4 Standards.**

1. No material shall be removed, and on shall be permitted within thirty (30') feet of any lot line. No removal or extraction shall take place within a hundred (100') feet of a wetland or 200 feet of a perennial stream. No removal or extraction shall take place within 300 feet of an existing public way if extractive operation is below the grade of the centerline of the road. No removal or excavation below the natural grace of any property boundary shall be permitted nearer than fifty (50') feet from such boundary.
2. All buffer areas, whatever their extent, shall be vegetated with native trees and shrubs, maintaining naturally existing vegetation possible, to screen neighboring uses from visual, noise, dust and other impacts of the operation. Where no natural vegetation exists, the applicant shall be responsible for planting and maintaining appropriate

vegetation, the City Council may require other additional screening, such as fencing or berms, to reduce impacts on nearby properties. Plans for such additional vegetative or other screening shall be submitted with the application for special permit.

3. Rock crushing equipment and other noise producing apparatus shall be set back a minimum of 400 feet from any property line. The noise standards in Section 6.5.4 shall apply to earth removal operations as well. Noise control berms may be required, as a condition of the special permit, to minimize impacts on neighboring properties.
4. The active excavation area shall not exceed a total of three (3) acres at any one (1) time. Natural vegetation shall be left and maintained on the undisturbed land.
5. Hours for extraction and hauling shall be between 7:00 a.m. and 7:00 p.m. Monday through Saturday, unless further restricted as a condition of a special permit.
6. Excavation shall not extend less than ten (10') feet above the annual high groundwater level. One (1) or more monitoring wells shall be installed by the applicant to monitor groundwater elevations.
7. No commercial operators in existence before the effective date of this earth removal ordinance and operating in accordance with a building permit issued by the Building Commissioner shall operate past the expiration of the building permit but shall be required to obtain a special permit in accordance with the provisions of this ordinance. Notwithstanding, said operator may continue to operate past the expiration date of said building permit, in accordance with the provisions of said permit, if it has filed an application for a special permit in accordance with the provisions of this ordinance. Said continued operation under the building permit shall lapse once the City Council has acted upon the operator's new application
8. Topsoil and subsoil stripped prior to excavation shall be stored on site, seeded with an erosion control mixture, and used in restoration of the site. A minimum of six (6") inches of topsoil and twelve (12") inches of subsoil shall be spread over the area to be restored. If sufficient quantities of material are not stockpiled on site, additional topsoil or subsoil shall be brought in of an equal or better quality than the native soil and shall be free of refuse, toxic contaminants or see of exotic invasive plants.
9. Extractive and restoration operations shall be conducted so as to conform to all local, state and federal statutes governing wetlands, water bodies, and drainage.

**7.3.5 Other Conditions.**

The City Council may impose conditions, not specifically provided for herein, on any special permit relating to earth removal. Such conditions are intended to profit plant and animal habitat, aesthetic appeal of the area, property values and the neighborhood and city against permanent or temporary hazards which may result from conditions after extractive operations methods of handling materials on site, or from transport or extracted materials through the city.

**7.4 MULTIFAMILY DWELLINGS**

**7.4.1 General.**

Multifamily dwellings, 4 or more units, shall be permitted only upon Site Plan Review by the Planning Board, as specified in Section 10 of this Ordinance in accordance with the Table of Principle Uses as seen in Section 4.3.

The conversion of an existing 2-family dwelling in an R2 District into a 3-family dwelling shall be allowed only by Special Permit from the City Council in accordance with Section 7.2.9 of the Ordinance.

**7.4.2 Dimensional Requirements.**

All requirements in the Table of Dimensional Regulations shall apply where not superseded by the following table. The dimensional requirements in the following table shall apply in the districts indicated for lots devoted to multifamily residences:

DISTRICT	Area (sq. ft.)	Frontage (ft.)	Depth (ft.)	Maximum coverage of land (%)
RM-LD	43,560	80	100	25
RM-20	40,000	200	100	30
RM-40	20,000	80	100	40
RM-60	6,000	60	100	60

### **7.4.3 Minimum Lot Area.**

In RM-40 and RM-60 districts, the minimum lot area per dwelling unit shall be increased by 300 square feet per bedroom over two (2) for each unit having more than two (2) bedrooms. The minimum lot area per dwelling unit may be reduced by 300 square feet for one (1) bedroom or efficiency units in RM-40, RM-60 and RO districts. The total lot area reduction shall be based only on the number of one (1) bedroom or efficiency units; and no reduction whatever shall be allowed unless the one (1) bedroom or efficiency units constitute at least one-third (1/3) of the total units being constructed.

### **7.4.4 Open Space Areas.**

In RM-LD, RM-20 and RM-40 districts, at least half (1/2) of the lot area not covered by buildings shall be devoted to recreational facilities and landscaped areas for the enjoyment of the residents. This area shall be maintained by the owner; devoted to plantings (including grass areas); devoted to pedestrian oriented paved areas designated for social or recreational use in common by the residents of the complex, and provided that such areas are kept essentially open to out-of-doors and are at ground level. Paved open space areas will be clearly designated on building plans and provided and maintained with appropriate recreational equipment. Specifically excluded from required open space are those areas devoted to parking, parking access, and service drives whether or not designed for multiple use and those areas deemed not usable for recreational or other tenant use. In designating open space, due regard shall be shown for all natural features which, if preserved, will add attractiveness and value to the development.

### **7.4.5 Row Houses.**

In the case of a multifamily dwelling consisting of more than two (2) attached dwelling units (row house or other such configuration) designed or intended to be individually owned, interior side yards are not required, provided:

1. The complex of individual units is planned and constructed as one (1) entity and at the same time.
2. Interior side lot lines are coincident with party walls.
3. There is a side yard at each end of the complex measuring at least one (1) and five-tenths (1.5) times the normal side yard requirements for the district.
4. All lots comply with the normal front and rear yard and area-per-dwelling-unit requirements for the district. With the approval of the Planning Board, a complex of existing units may be divided in conformance with provisions of this section.

## **7.5 FLEXIBLE DEVELOPMENT**

### **7.5.1 Purpose.**

The purposes of this section, Flexible Development, are:

1. to encourage the preservation of open land for its scenic beauty and to enhance agricultural, open space, forestry, and recreational use.
2. to preserve historical and archeological resources; to protect the natural environment, including Holyoke's varied landscapes and water resources.
3. to protect the value of real property.
4. to promote more sensitive siting of buildings and better overall site planning.
5. to perpetuate the appearance of Holyoke's traditional New England landscape.
6. to facilitate the construction and maintenance of streets, utilities, and public services in a more economical and efficient manner.
7. to offer an alternative to standard subdivision development.

### **7.5.2 Applicability.**

In accordance with the following provisions, a Flexible Development project may be created, whether a subdivision or not, from any parcel or set of contiguous parcels held in common ownership and located entirely within the city. Proposed parcel shall be equipped with public water supply in order to receive a density bonus.

### **7.5.3 Procedures.**

Flexible Development may be authorized upon the issuance of a special permit by the Planning Board. Applicants for Flexible Development shall file with the Planning Board the information required by Section 9.3. Applicants who anticipate filing a Special Permit shall file with the Planning Board according to Section 10 of this ordinance regarding Site Plan Review. Additional information shall include:

1. Boundaries of areas regulated by the Holyoke Conservation Commission under MGL, c131, Ch. 40.

2. Location and limits of soil types consistent with the soils classification maps prepared by the US Department of Agriculture Soil Conservation Service.
3. The extent of any primary and secondary aquifers underlying the site, as currently shown on maps prepared by the City Of Holyoke.
4. Topographic contours at intervals of ten (10') feet or less.
5. Delineation of slopes of twenty (20) percent or greater.
6. The location of cultural and historic features including but not limited to stonewalls on the boundary of the site, archeological and historic sites and structures, and significant trees (caliper of thirty (30") inches or more at the base). On sites of more than twenty (20) acres, interior stone walls shall be shown.
7. The boundaries of the secondary watershed areas in which the site is located.
8. Scenic viewsheds as identified by on-site observations from public roads and vantage points.

#### **7.5.4 Design Process.**

Each development plan shall follow the design process outlined below. When the development plan is submitted, applicants shall be prepared to demonstrate to the Planning Board that this Design Process was considered in determining the layout of proposed streets, house lots, and common open space.

1. *Understanding the Site.* The first step is to inventory existing site features, taking care to identify sensitive and noteworthy natural, scenic and cultural resources on the site, and to determine the connection of these important features to each other.
2. *Evaluating Site Context.* The second step is to evaluate the site in its larger context by identifying physical (e.g., stream corridors, wetlands), transportation (e.g., road and bicycle networks), and cultural (e.g., recreational opportunities) connections to surrounding land uses and activities.
3. *Designating the Common Open Space.* The third step is to identify the common open space to be preserved on the site. Such open space should include the most sensitive and noteworthy resources of the site, and, where appropriate, areas that serve to extend neighborhood open space networks.
4. *Location of Development Areas.* The fourth step is to locate building sites, streets, parking areas, paths and other built features of the development. The design should include a delineation of private yards, public streets and other areas, and shared amenities, so as to reflect an integrated community, with emphasis on consistency with historical development patterns.
5. *Lot Lines.* The final step is simply to draw in the lot lines (if applicable).

#### **7.5.5 Modification of Lot Requirements.**

The Planning Board encourages applicants for Flexible Development to modify lot size, shape, and other dimensional requirements for lots within a Flexible Development to create a building site which is in harmony with the natural features of the site, subject to the following limitations:

1. Lots having reduced area or frontage shall not have frontage on a street other than a street created by the Flexible Development; provided, however, that the Planning Board may waive this requirement where it is determined that such reduced lot(s) are consistent with existing development patterns in the neighborhood.

#### **7.5.6 Number of Dwelling Units.**

Units shall be allowed as follows:

1. *Basic Maximum Number.* The Basic Maximum Number of dwelling units allowed in a Flexible Development shall not exceed the number of lots which could reasonably be expected to be developed upon the site under a conventional plan in full conformance with all zoning, subdivision regulations, health regulations, wetlands regulations and other applicable requirements. The proponent shall have the burden of proof with regard to the design and engineering specifications for such conventional plan.
2. *Density Bonus.* The Planning Board may award a density bonus to increase the number of dwelling units beyond the Basic Maximum Number. The density bonus for the Flexible Development shall not, in the aggregate, exceed fifty (50%) percent of the Basic Maximum Number. All dwelling units awarded as a density bonus shall be two (2) bedroom units. Computations shall be rounded to the lowest number. A density bonus may be awarded in the following circumstances:
  - a. For each additional ten (10%) percent of the site (over and above the required thirty (30%) percent) set aside as common open space, a density bonus of one (1) additional unit may be awarded; provided, however, that this density bonus shall not exceed fifty (50%) percent of the Basic Maximum Number.

### 7.5.7 Site Design Standards.

1. *Buildings.* The Flexible Development may consist of single family detached and/or zero lot line residential structures. The following criteria shall apply:
  - a) Residential structures shall be oriented toward the street serving the premises and not the required parking area.
  - b) Lots shall be laid out and designed, to the greatest extent feasible, to preserve and protect historic and archeological sites, farmland, wooded stream corridors, forested areas and large trees, scenic views particularly as seen from public roads, ridgelines and hilltops.
2. *Roads.* The principal roadway(s) serving the site shall be designed to conform with the standards of the city where the roadway is or may be ultimately intended for dedication and acceptance by the city. Private ways shall be adequate for the intended use and vehicular traffic and shall be maintained by an association of unit owners or by the Applicant.
3. *Parking.* Each dwelling unit shall be served by two (2) off-street parking spaces. Parking spaces in front of garages may count in this computation.
4. *Common Open Space.* A minimum of thirty (30%) percent of the parcel shown on the development plan shall be common open space. Any proposed common open space, unless conveyed to the city or its Conservation Commission, shall be subject to a recorded restriction enforceable by the city, providing that such land shall be perpetually kept in an open state, that it shall be preserved for exclusively agricultural, horticultural, educational or recreational purposes, and that it shall be maintained in a manner which will ensure its suitability for its intended purposes.
  - a. The percentage of the common open space which is wetlands shall not normally exceed the percentage of the tract which is wetlands; provided, however, that the applicant may include a greater percentage of wetlands in such open space upon a demonstration that such inclusion promotes the purposes set forth in Section 1, above. In no case shall the percentage of common open space which is wetlands exceed fifty (50%) percent of the tract.
  - b. At least seventy (70%) percent of the common open space shall be retained in contiguous areas, unless less is approved by the Planning Board.
  - c. The common open space shall be used for conservation, historic preservation and education, outdoor education, recreation, park purposes, agriculture, horticulture, forestry, or for a combination of these uses, and shall be served by suitable access for such purposes.
  - d. The maximum number of house lots compatible with good design shall abut the open space and all house lots shall have reasonable physical and visual access to the open space through internal roads, sidewalks or paths. An exception may be made for resource areas vulnerable to trampling or other disturbance.
  - e. The common open space shall have a shape, dimension, character, and location suitable to assure its use for park, recreation, conservation or agricultural purposes by at least all of the residents of the tract.
  - f. Open space areas may not be excavated or filled and must be maintained in their natural state.
  - g. Further subdivision of the common open space or its use other than recreation, conservation, forest or agriculture, except for easements for underground utilities or drinking water supply wells, shall be prohibited.
  - h. Structures or buildings accessory to recreation, conservation, or agriculture use may be erected but shall not exceed five (5%) percent coverage of such common space.
5. *Ownership of the Contiguous Open Space.* The contiguous open space shall, at the Planning Board's election, be conveyed to:
  - a. The City or its Conservation Commission.
  - b. A nonprofit organization, the principal purpose of which is the conservation of open space and any of the purposes for such open space set forth above.
  - c. A Corporation or trust owned jointly or in common by the owners of lots within the Flexible Development. If such corporation or trust is utilized, ownership thereof shall pass with conveyance of the lots in perpetuity. Maintenance of such open space and facilities shall be permanently guaranteed by such corporation or trust which shall provide for mandatory assessments for maintenance expenses to each lot. Each such trust or corporation shall be deemed to have assented to allow the city to perform maintenance of such open space and facilities, if the trust or corporation fails to provide adequate maintenance, and shall grant the city an easement for this purpose. In such event, the city shall first provide fourteen (14) days written notice to the trust or corporation as to the inadequate maintenance, and, if the trust or corporation fails to complete such maintenance, the city may perform it. Each



individual deed, and the deed or trust or articles of incorporation, shall include provisions designed to effect these provisions. Documents creating such trust or corporation shall be submitted to the Planning Board for approval, and shall thereafter be recorded. Such organization shall not be dissolved nor shall it dispose of any common open space by sale or otherwise (except to an organization conceived and organized to own and maintain the common open space), without first offering to dedicate the same land to the city.

6. *Buffer Areas.* A buffer area of fifty (50') feet shall be provided at the perimeter of the property where it abuts residentially zoned or occupied properties, except for driveways necessary for access and egress to and from the site. No vegetation in this buffer area will be disturbed, destroyed or removed, except for normal maintenance. The Planning Board may waive the buffer requirement (i) where the land abutting the site is held by the city for conservation or recreation purposes; or (ii) the Planning Board determines that a smaller buffer will suffice to accomplish the objectives set forth herein.
7. *Drainage.* Stormwater management shall be consistent with the requirements for subdivisions set forth in the Rules and Regulations of the Planning Board. The Planning Board shall encourage the use of non-structural stormwater management techniques and other drainage systems that reduce impervious surfaces and enable infiltration where appropriate. Stormwater management systems serving the flexible development may be located within the required common open space. Surface systems, such as retention and detention ponds, shall not qualify towards the minimum open space requirement.

#### **7.5.8 Decision.**

The Planning Board may approve, approve with conditions, or deny an application for a Flexible Development after determining whether the Flexible Development better promotes the purposes of this Flexible Development Ordinance than would a conventional subdivision development of the same locus.

1. *Relation to Other Requirements.* The submittals and permits of this section shall be in addition to any other requirements of the Subdivision Control Law or any other provisions of this Zoning Ordinance.

## **7.6 PLANNED UNIT DEVELOPMENT**

### **7.6.1 Purpose.**

The planned unit development, in addition to furthering the general purpose of this ordinance, is intended to provide for a mixture of housing types in the RA, R-1, R-1A, R-2 and RM-20 districts at somewhat greater densities than would normally be allowed in order to promote objectives of better diversity, livability and aesthetic quality in the living environment. Therefore, planned unit developments allowed under this ordinance shall be carefully designed to result in economical and efficient street, utility, and public facility installation, construction and maintenance; a variety of housing types and characteristics appropriate to differing socioeconomic groups; efficient allocation, distribution, and maintenance of common open space; harmonious relationships between land uses and natural features; and enhancement of property values over the long-run.

### **7.6.2 Requirements.**

Planned unit development may be allowed by special permit issued by the Planning Board in the RA, R-1, R-1A, R-2 and RM-20 districts, subject to the following conditions:

1. The proposed planned unit development shall be in harmony with the master plan, as prepared and amended by the Planning Board.
2. The planned unit development shall be an effective and unified treatment of the development possibilities on the project site, making appropriate provision for the preservation of streams and stream banks, wooded cover, rough terrain and other significant natural features.
3. The proposal shall specify reasonable periods within which construction of each section of development may be started. No building designed or intended for business use shall be constructed prior to the construction of not less than fifty (50%) percent of the housing units proposed to be built.
4. Deviation from the required amount of usable open space per housing unit may be allowed, provided such deviation shall be compensated for in other sections of the development. The reservation and maintenance of the open space or common land shall be assured in accordance with the procedures prescribed herein.

### **7.6.3 Eligible Uses.**

In a planned unit development, the following uses may be proposed as part of the special permit application:

1. Church or other religious use; educational use, including nursery or day-care facility; governmental use.
2. Single family dwelling; two-family or semidetached dwelling; apartment building or row house.
3. Limited business uses, as listed below:
  - a. Barber shop
  - b. Beauty parlor
  - c. Tailor shop
  - d. Shoe repair shop
  - e. Newsstand
  - f. Drugstore
  - g. Food store
  - h. Restaurant
  - i. Health spa
  - j. Recreation-related businesses
  - k. Medical and related professional services
  - l. Video rental store
  - m. Laundry, dry cleaner
  - n. Florist
  - o. Small appliance repair
  - p. Accessory uses
  - q. Other business or commercial uses deemed appropriate by the City Council.

The City Council, when granting the special permit for the planned unit development, may disallow one (1) or more of the above-enumerated uses, depending on the characteristics of the proposed development and the vicinity. In such cases, the excluded uses will be stated on the permit.

### **7.6.4 Dimensional Controls.**

In a planned unit development the following requirements relating to the density and intensity of land use shall be met:

1. Minimum number of dwelling units: 50.
2. Maximum overall density (dwellings per acre): The same as that for the district(s) in which the development is

located; except that the City Council may, in proper cases, allow an increase in overall project density of up to twenty percent on the land used for residence as an incentive to developers to undertake planned unit developments despite the increased costs brought about by application and performance guarantee procedures.

3. Minimum dimensions as follows, provided the land thus saved is devoted to common open space:
4. Lot size per single family dwelling: One-half (1/2) basic minimum lot area shown in the schedule of dimensional controls.
5. Lot size per two-family dwelling: Two-thirds (2/3) basic minimum lot area per dwelling unit shown in the schedule.
6. Lot frontage per single family or two-family dwelling: Two-thirds (2/3) of the frontage shown in the schedule.
7. Setback and rear and side yards, pertaining to lots within the development: Two-thirds (2/3) basic minimum dimensions shown in the schedule.
  
8. Minimum setback and rear and side yards, pertaining to the periphery of the development: Equal to the requirements of each district as shown in the schedule of dimensional controls.
9. Maximum height of structures: Forty (40') feet.
10. Maximum gross floor area of allowed business uses except motor vehicle light service: Fifteen (15%) percent of the gross floor area of all buildings containing dwelling units.
11. Maximum land area of motor vehicle light service: One (1%) percent of the total area of the development.
11. Minimum usable open space, or common land, per dwelling unit: 1,000 square feet, such space not to include parking space, laundry drying areas or required front yards.
13. Maximum percentage of dwelling units of any one type of permitted housing: seventy-five (75%) percent.

#### **7.6.5 Overall Design Standards.**

The planned unit development shall be designed in accordance with the following standards:

1. All buildings in the layout and design shall be an integral part of the development and have convenient access to and from adjacent uses and blocks. Individual buildings shall be related to each other in design, masses, materials, placement and connections to provide a visually and physically integrated development.
2. Treatment of the sides and rear of all buildings within the planned development group shall be comparable in amenity and appearance to the treatment given to street frontages of these same buildings. The design of buildings and their ancillary facilities shall take advantage of the topography of the site wherever possible.
3. All buildings shall be arranged as to avoid undue exposure to concentrated loading or parking facilities wherever possible and shall be so oriented as to preserve visual and audible privacy between adjacent buildings. All buildings shall be arranged as to be accessible to emergency vehicles.
4. Landscape design standards. Landscape treatment for plazas, drives, walkways, service and parking areas shall be designed as an integral part of a coordinated landscape design for the entire project area. Landscape materials selected shall be appropriate to the growing conditions of the city's environment. Whenever appropriate, existing vegetal cover shall be conserved and integrated into the landscape design. Planting exotic invasive species shall not be allowed.
5. Circulation design standards. Roads, drives, pedestrian walks and open space shall be designed as an integral part of an overall site design, and shall be properly related to proposed buildings and topography. Buildings and vehicular circulation spaces shall be arranged so that pedestrians moving between buildings are not unnecessarily exposed to vehicular traffic. Landscaped, paved and comfortably graded pedestrian walks shall be provided along the lines of the most intense use, particularly from building entrances to streets, parking areas and adjacent buildings. Maximum separation of private automobiles and service vehicles shall be insured through the use of separate service areas.
6. Conveyance and maintenance of common open space. All land shown on the definitive development plan as common open space shall be conveyed under one of the following options: Conveyance may be to a public agency which agrees to maintain the common open space and any buildings, structures, or improvements which have been placed on it; or Conveyance may be to trustees provided in an indenture establishing an association or similar organization for the maintenance of the open space and other common property in the planned development. (The common open space must be conveyed to the trustees subject to covenants to be approved by the Planning Board which restrict the common open space to the uses specified on the final development plan, and which provide for the maintenance of the common open space in a manner which assures its continuing use for its intended purpose.) If the common open space is not conveyed to a public agency, either one of the following methods of enforcement must be provided: The legal right to develop the common open space for the uses not specified in the final development plan must be conveyed to a public agency; or the restrictions governing the use, improvement, and maintenance of the common open space must be stated as conditions to the conveyance of the common open space, the fee title to the common open space to vest in a public agency in the event of a substantial default in the stated

conditions. If the common open space is not conveyed to a public agency, the covenants governing the use, improvement, and maintenance of the common open space may authorize a public agency to enforce their provisions. Common open space shall be contiguous to other open space to the extent feasible.

#### **7.6.6 Procedural Requirements.**

The following procedures shall be required for the presentation of a planned unit development proposal:

1. Pre-application conference. Before submitting an application for a special permit for a planned unit development, an applicant, at his option, may confer with the Planning Department to obtain information and guidance before entering into binding commitments or incurring substantial expense in the preparation of plans, surveys, and other data.
2. Application for special permit, outline plan. Each application for a planned unit development shall be accompanied by an outline, or preliminary plan in triplicate, of the entire tract under consideration, prepared in accordance with the specifications of the Subdivision Regulations of the Planning Board for preliminary subdivision plans (whether or not all of the development constitutes a subdivision as defined in the Subdivision Control Law, G.L. c. 41, ss. 81K-81GG, inclusive). Within ten (10) days after receipt of the plan, the City Council shall transmit a copy thereof to the Planning Board. The Planning Board shall investigate the proposed layout and report, in writing, its recommendations to the City Council. The City Council shall not take final action until it has received a report from the Planning Board or until the Planning Board has allowed sixty (60) days to elapse after receipt of such plan without rendering a report.
3. A special permit for a planned unit development, issued by the City Council, shall be deemed to be authorization to develop the tract according to the special use regulations and dimensional controls set forth herein. A favorable recommendation by the Planning Board that a special permit be issued, shall not be deemed to constitute final approval of the development nor any part thereof.
4. Design control, definitive plan. After issuance of a special permit for a planned unit development, the execution of the project, in accordance with the standards set forth herein, shall be accomplished in the manner prescribed for a subdivision, as contained in the subdivision rules and regulations of the Planning Board. Said procedures shall apply whether or not all of the development constitutes a subdivision (as defined in the Subdivision Control Law, G.L. c. 41, ss. 81K-81GG, inclusive).
5. There shall be submitted to the Planning Board a definitive development plan of the entire tract, showing, in addition to those elements required for a subdivision definitive plan, the location and type of all buildings, walkways, driveways and parking areas, the topography, the proposed landscape treatment, and the location, extent and design of all areas proposed to be conveyed, dedicated or otherwise reserved for common open space and for schools and other public or semipublic facilities. There shall also be submitted a development schedule, showing the beginning and completion dates for each phase of the project, and the amount of common open space to be provided with each phase. Agreements, provisions or covenants proposed to govern the use, maintenance and continued protection of common areas within the development shall also be submitted.
6. The Planning Board shall hold a public hearing, in accordance with the procedures for hearings under the Subdivision Control Law, on the definitive development plan and its supporting documentation, and shall, within the time limits therein prescribed, approve or disapprove said plan. Those portions of an approved plan, which constitute a subdivision within the meaning of the Subdivision Control Law, shall be endorsed after appropriate performance guarantees have been made and after the required appeal period.
7. In-progress adjustments. Amendments to the approved definitive plan may be made at any time in the manner prescribed for subdivisions in G.L. c. 41, s. 81W.

#### **7.6.7 Adherence to Approved Plan.**

In addition to performance guarantees required for those portions of the development which constitute a subdivision, conformance with the definitive plan for the entire development will be insured by continued surveillance by the Planning Board. Failure to adhere to the approved definitive plan and supporting documentation will, upon recommendation of the Planning Board, result in suspension of all building permits outstanding until the Building Commissioner and the Planning Board are satisfied that the work is proceeding according to said plan and schedule. Continued failure to comply with the approved definitive plan will result in revocation of the special permit for a planned unit development.

## **7.7 INDEPENDENT LIVING RETIREMENT COMMUNITIES, CONTINUING CARE RETIREMENT COMMUNITIES AND ASSISTED LIVING COMMUNITIES**

### **7.7.1 Purpose.**

The purpose of this section is to:

1. Provide affordable, adequate, multifamily dwelling units for persons of age fifty-five (55) or older.
2. Provide housing targeted for persons of age fifty-five (55) or older which will minimize the potential impacts in terms of noise, traffic, parking, environmental impacts, and related issues of such multifamily housing on surrounding properties;
3. Provide for assisted living residences as defined in G.L. c. 19D, s. 1.
4. Provide for assisted living residences as herein defined which will minimize the potential impacts in terms of noise, traffic, parking, environmental impacts, and related issues on surrounding properties;
5. Provide affordable, adequate, dwelling units and multifamily housing opportunities and nursing, medical and health care services for persons of age fifty-five (55) or older consistent with G.L. c. 93, s. 76.
6. Provide housing and health care services targeted for persons age fifty-five (55) or older which will minimize the potential impacts in terms of noise, traffic, parking, environmental impacts, and other related issues on surrounding properties.

### **7.7.2 Special Permit Required.**

The development of independent living retirement communities, continuing care retirement communities and/or assisted living communities shall require a special permit from the City Council.

### **7.7.3 Eligibility.**

All buildings for independent living retirement communities, continuing care retirement communities and assisted living communities shall conform to the dimensional requirements set forth below:

1. Independent living retirement communities shall be permitted on parcels of five (5) acres or more in RA, R-2, RM-20, RM-40, RM-60, RO, BL, BC, BG, and BH districts;
2. Assisted living communities shall be permitted by special permit on parcels of five (5) acres or more in RA, R-2, RM-20, RM-40, RM-60, RO, BL, BC, BG, and BH districts;
3. Continuing care retirement communities shall be permitted by special permit on parcels of five (5) acres or more in RA, R-2, RM-20, RM-40, RM-60, RO, BL, BC, BG, and BH districts.

### **7.7.4 Design Requirements.**

In order to be eligible for consideration for a special permit, independent living retirement communities, continuing care retirement communities and/or assisted living communities shall meet the following standards:

1. **Siting and Layout Requirements.** The development shall be integrated into the existing terrain and surrounding landscape, and shall be designed to protect abutting properties and community amenities. Building sites shall, to the extent feasible:
  - a. Minimize use of wetlands, steep slopes, floodplains and hilltops;
  - b. Minimize obstruction of scenic views from publicly accessible locations;
  - c. Preserve unique natural or historical features;
  - d. Minimize tree, vegetation, and soil removal and grade changes;
  - e. Maximize open space retention; and
  - f. Screen objectionable features from neighboring properties and roadways.
2. **Design Requirements.**
  - a. More than one (1) structure may be placed on a lot and, in addition, each dwelling must be provided with access, drainage and utilities.
  - b. Buildings shall be in harmony with the prevailing character and scale of buildings in the neighborhood through the use of appropriate building materials, screening, breaks in roof and wall lines and other architectural techniques. Variation in detail, form and siting shall be used to provide visual interest. Proposed buildings shall relate harmoniously to each other with adequate light, air, circulation and separation between buildings.

3. Vehicular and Pedestrian Access Requirements.
  - a. The plan shall maximize the convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent ways.
  - b. Structures shall have access on interior roadways approved by the City Engineer.
  - c. Connecting walkways with tree belts shall be provided between structures and parking areas within the site.
4. Open Space and Buffer Area Requirements.
  - a. Maximum land coverage in RA zones shall be fifty (50%) percent and shall include all impervious surfaces with areas over a hundred (100) square feet.
  - b. Structures shall be separated from adjacent properties outside the retirement and assisted living communities by buffer strips consisting of trees and/or fencing sufficient to minimize the visual impacts of the development. Such a buffer strip shall be at least twenty (20') feet in width and contain plantings. Individual shrubs or trees shall be maintained by the owner or occupants. At least fifty (50%) percent of the plantings shall consist of evergreen trees and shrubs. A wall or fence, not to exceed six (6') feet in height, complemented by plantings, may be substituted for such a landscaped buffer strip as approved by the Planning Board. The strip may be part of the yard.
5. Parking, Loading and Lighting Requirements.
  - a. To the extent feasible, parking areas shall not be located within a required front yard and shall be screened from public ways and adjacent or abutting properties by building location, fencing or plantings. For purposes of this subparagraph, one (1) parking space shall have an area of 200 square feet (ten (10') feet wide by twenty (20') feet long). No parking shall be allowed on interior roadways.
  - b. In independent living retirement communities, 1.5 parking spaces shall be provided for each dwelling unit; in assisted living and continuing care retirement communities, one (1) parking space shall be provided for each two (2) individual units; in all retirement and assisted living communities, one (1) parking space for visitors shall be provided for each ten (10) individual units; and employee parking shall be provided at the rate of two (2) for each three (3) employees in the maximum working shift; provided that all parking requirements may be altered by the Planning Board during the site plan review process.
  - c. Exposed storage areas, machinery, service areas, truck loading areas, utility buildings and structures, and other unsightly uses shall be set back or screened.
6. Water Supply and Sewerage Requirements.
  - a. The development shall be served by adequate public water and sewer systems provided by the developer or applicant which do not place excessive demands on municipal infrastructure.
7. Stormwater Management.
  - a. Stormwater management shall be regulated by Section 10.1.8 of this ordinance.
8. Utility Requirements.
  - a. Where physically and environmentally feasible, electric, telephone, cable TV, and other such utilities shall be placed underground at the developer's expense.
9. Maximum number of independent units per lot is calculated by dividing the area of the parcel (expressed in square feet) by 2,200, unless the prevailing zone allows a higher level of density, in which case the number of units permitted in the prevailing zone is allowed.

## **7.8 WIRELESS TELECOMMUNICATION FACILITIES AND ANTENNAS**

### **7.8.1 Purpose.**

The purpose of this section is to establish general guidelines for the siting of wireless telecommunications facilities and antennas. The goals of this section are to:

1. Protect residential areas and land uses from potential adverse impacts of wireless telecommunications facilities and antennas;
2. Locate wireless telecommunications facilities and antennas in nonresidential areas;
3. Minimize the total number of wireless telecommunications facilities and antennas throughout the community;
4. Strongly encourage the joint use of new and existing wireless telecommunication facility and antenna sites as a primary option rather than construction of additional single use wireless telecommunications facilities;
5. Encourage users of wireless telecommunications facilities and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal;
6. Encourage users of wireless telecommunications facilities and antennas to configure them in a way that minimizes the adverse visual impact of the wireless telecommunications facilities and antennas through careful design, siting, landscape screening, and innovative camouflaging techniques;
7. Enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently;
8. Avoid potential damage to adjacent properties from wireless telecommunications facilities and antennas through engineering and careful siting of wireless telecommunications facilities and antennas; and
9. Encourage the use of municipally owned land for the siting of wireless telecommunications facilities and antennas.

### **7.8.2 Applicability.**

All new wireless telecommunications facilities or antennas, or Material Modifications to existing wireless telecommunications facilities or antennas, in the City of Holyoke shall be subject to these regulations. A Material Modification shall be defined as the replacement of a telecommunications facility, any addition of equipment to a wireless communications facility other than on a temporary basis, an increase in the number of antennas, any increase in the telecommunications facility height or any expansion of the enclosed area in which the equipment buildings or cabinets is located.

1. Pre-existing wireless telecommunications facilities or antennas. Pre-existing wireless telecommunications facilities and pre-existing antennas shall not be required to meet the requirements of this section, unless a Material Modification is proposed to such a facility or antenna, in which case the proposed modification shall be subject to the requirements of this Section 7.8.
2. Exempted wireless telecommunications facilities and antenna uses. Specifically exempt from this section are the following wireless telecommunications facilities and antennas: police, fire, ambulance and other emergency facilities or municipal dispatch; amateur (ham) radio, citizens band radio; and any existing commercial radio tower or radio dispatch services for local businesses.
3. Wireless telecommunications facilities and antennas may be considered either principal or accessory uses. A different existing use of an existing structure on the same lot shall not preclude the installation of an antenna or wireless telecommunications facility on such lot.
4. Wireless telecommunications facilities and antennas shall be regulated and permitted pursuant to this section and shall not be regulated or permitted as essential services, public utilities, or private utilities.

### 7.8.3 General Requirements.

Wireless telecommunications facilities and antennas shall be regulated pursuant to this section, subject to the following conditions:

1. **Special Permit.** All new wireless telecommunications facilities, antennas, and Material Modifications shall require a Special Permit from the City Council.
2. **Lot size.** For purposes of determining whether the installation of a wireless telecommunications facility or antenna complies with zoning regulations, including, but not limited to, setback requirements, lot coverage requirements, and other such requirements, the dimensions of the entire lot shall control, even though the antenna or wireless telecommunications facility may be located on leased parcels within such lot.
3. **Aesthetics.** Wireless telecommunications facilities and antennas shall meet the following requirements:
  - a. Wireless telecommunications facilities and antennas shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a color so as to reduce visual obtrusiveness; and
  - b. At a wireless telecommunications facility or antenna site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings.
4. **Lighting.** Wireless telecommunications facilities and antennas shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views.
5. **Accessory Uses.** Wireless telecommunications facilities may support accessory uses not regulated by the FCC. Such accessory uses shall not interfere with any telecommunications equipment installed or to be installed on the telecommunications facility. Such a proposed accessory use for a new wireless telecommunication facility shall be presented with the information set forth in this Section 7.8.
6. **Accessory Structures.** Wireless telecommunications facilities may contain accessory structures. Structures shall be limited to one (1) structure per carrier located at the telecommunications facility, shall be presented at the time of the Special Permit Application, and shall comply with Section 7.8.3.3.b above.
7. **Compliance with Other Regulations.** All wireless telecommunications facilities and antennas must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the local, state, or federal government with the authority to regulate wireless telecommunications facilities and antennas including any conservation or historic impacts. Prior to applying for a building permit, the applicant shall submit to the Building Commissioner a statement that it has obtained all necessary permits, noting any differences between the list of necessary permits submitted with the application and the permits obtained. The applicant will also provide the Building Commissioner or the City Council with copies of any requested permits.
8. **Maintenance.** To ensure the structural integrity of wireless telecommunications facilities and antennas governed by this Section, the owner of a wireless telecommunication facility or antenna, including buildings and support equipment associated with antennas or wireless telecommunications facilities, shall comply with standards contained in all applicable building codes and the applicable standards for wireless telecommunications facilities and antennas that are published by the Electronic Industries Association, as amended from time to time. If such standards and regulations are changed for existing facilities, the owner of the wireless telecommunications facilities or antennas shall bring such wireless telecommunications facilities or antennas into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. If, upon inspection, the City of Holyoke, through its Building Commissioner or appropriate authority, concludes that a wireless telecommunications facility or antenna fails to comply with such codes and standards or constitutes a danger to persons or property, then, upon written notice being provided to the owner of the wireless telecommunications facility or antenna, the owner shall have thirty (30) calendar days from such notice to bring such wireless telecommunications facility or antenna into compliance with such standards. Failure to bring such wireless telecommunications facility or antenna into compliance within thirty (30) calendar days shall constitute grounds for the removal of the wireless telecommunications facility and antenna at the owner's expense.



9. Signs. No signs shall be allowed on an antenna or wireless telecommunications facility, with the exception of a sign to identify the owner(s) and to warn of potential danger. The City Council shall determine the appropriate sign size required to be adequately visible to the public; however, in no case shall the sign exceed twelve (12) square feet.
10. Setbacks. A wireless telecommunications facility shall not be erected nearer to any property line than a minimum distance equal to the vertical height of the wireless telecommunications facility, including any antenna that extends above the height of the facility plus twenty-five (25') feet. The City Council may permit a reduced setback if the City Council finds such reduced setback will not adversely affect safety or aesthetics and the applicant provides a certification from the tower manufacturer or design engineer that the tower is designed to collapse on itself or otherwise collapse safely.
11. Height. Wireless telecommunication facilities shall not exceed a height of 200 feet including any antenna located above the height of the facility, except that a height of up to 300 feet shall be allowed for public safety or public utility purposes. Public utility purposes include the need of a public utility to place an accessory structure at a height greater than 200 feet.
12. Tower Structure. Only free-standing tower structures without guy wires that include antennas and/or accessory uses are allowed. Monopoles are preferred, while lattice-style is allowed provided applicant can demonstrate that such structure minimizes environmental impacts as certified by a professional environmental engineer licensed to practice in Massachusetts.
13. At the time of application for all new wireless telecommunications facilities or any Material Modifications to existing wireless telecommunications facilities, the applicant shall, to the greatest extent possible, assist the City in the enhancement of its public safety communications system by providing space on the telecommunications tower for City fire, police rescue and public works communications, as well as space for any associated ground equipment.

#### **7.8.4 Special Permit Application -Wireless Telecommunications Facility.**

Each applicant for a special permit for a wireless telecommunications facility shall provide ten (10) hard copies and one digital copy of the application to the City Council, to be distributed to city departments and the City Council, including the following information:

1. Inventory of Existing Sites. An inventory of its existing wireless telecommunications facilities, antennas, or sites approved for wireless telecommunications facilities or antennas, that are either within the jurisdiction of the City of Holyoke or within one (1) mile of the border thereof, including specific information about the location, height, and design of each wireless telecommunications facility shall be provided to the Building Commissioner. The Building Commissioner may share such information with other applicants applying for special permits under this section or other organizations seeking to locate antennas or wireless telecommunications facilities within the jurisdiction of the City of Holyoke; provided however, that the Building Commissioner is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.
2. Site plans and engineering plans. The plans shall be prepared by a professional engineer licensed to practice in Massachusetts, on 24-inch by 36-inch sheets at a scale of one (1") inch equals forty (40') feet or one (1") inch equals two hundred (200') feet where appropriate, on as many sheets as necessary which show the following:
  - a. North arrow, date, scale, seal(s) of the licensed professional(s) who prepared the plans and space for reviewing the licensed engineer's seal;
  - b. Name and address of the landowner and name and address of all abutters;
  - c. Property lines and location of permanent structures or buildings, within a 500-foot radius of a proposed wireless telecommunications facility;
  - d. Existing (from a topographical survey completed within the two (2) years of application submittal date by a professional surveyor licensed to practice in Massachusetts) and proposed contours at a minimum of two (2') foot intervals and spot elevations at the base of all the proposed and existing facilities;
  - e. Vegetation to be removed or altered;
  - f. Plans for drainage of surface water and plans to control erosion and sedimentation both during construction and as a permanent measure;
  - g. Delineation of wetlands, if any;

- h. Location of wireless telecommunications facility, including any antennas or accessory uses (e.g., wind monitoring equipment, security cameras);
  - i. Plans for anchoring and supporting the facility, including specifications of hardware and all other building material;
  - j. Plans for accessory structures;
  - k. Layout and details of surfacing for access road and parking;
  - l. Amenities such as lighting, fencing, landscaping; and
  - m. Four (4) view lines in a one-to three-mile radius of the site, beginning at True North and continuing clockwise at 90-degree intervals and from any historic, scenic, or other prominent areas of the City which may be in view of the site.
3. A map showing the areas covered by the proposed wireless telecommunications facility and antenna, including the submission of certified radio plots.
  4. A locus map at a scale of one (1") inch equals 1,000 feet which shall show streets, buildings, and landscape features.
  5. A description of the soil and surficial geology at the proposed site.
  6. A narrative report written by the applicant and a licensed professional engineer, which shall:
    - a. Describe the justification of the proposed site;
    - b. Describe the facility and the technical, and other reasons for the facility design;
    - c. Describe the capacity of the facility, including the number and type of additional facilities it can accommodate;
    - d. Describe actions to be taken if electromagnetic radiation from the facility should exceed levels designated by the FCC;
    - e. Describe the projected future needs of the carrier, and how the proposed wireless telecommunications facility fits with future projections to serve the city and adjacent cities and towns; and
    - f. Describe special design features to minimize the visual impact of the proposed wireless telecommunications facility and antenna.
  7. List of all other necessary permits needed for the construction and/or operation of the wireless telecommunications facility and antenna.
  8. Written request for permission for a reduction in setbacks including all supporting documentation, if applicable.

**7.8.5 Special Permit Application -Antenna.**

Each applicant for a special permit for new or additional antennas on an existing wireless telecommunications facility or nonresidential structure, such as buildings, grain silos, steeples, or water towers, including co-location with another carrier, provided that the new use does not add more than fifty (50') feet to the height of the structure, shall provide five (5) hard copies and one digital copy to the City Council the following information:

1. Site plans and engineering plans, prepared by a professional engineer licensed to practice in Massachusetts, on 24-inch by 36-inch sheets at a scale of one (1") inch equals forty (40') feet or one (1") inch equals two hundred (200') feet on as many sheets as necessary which shows the following:
  - a. North arrow, date, scale, the seal(s) of the licensed professionals who prepared the plans and a space for the reviewing licensed engineer's seal;
  - b. Plans for supporting and attaching the device, including specifications of hardware and all other building materials;
  - c. Building plans for accessory structures, if any; and
  - d. Layout and details of surfacing for access road and parking, if it is to be altered from existing condition.
2. A map showing the areas covered by the proposed antennas of two (2) different signal strengths and the interface with adjacent service areas, through the submission of certified radio plots.
3. A narrative report written by the carrier and a licensed professional engineer which shall:

- a. Demonstrate that the wireless telecommunications facility or nonresidential structure to which the device will be mounted has the structural integrity to support such device;
  - b. Describe actions to be taken if electromagnetic radiation from the facility should exceed levels designated by the FCC; and
  - c. Describe the projected future needs of the carrier, and how the proposed facility fits with future projections.
4. List of all other necessary permits needed for construction and operation.
  5. Written request for permission for a reduction in setbacks including all supporting documentation, if applicable.

#### **7.8.6 Balloon Simulation.**

At least fourteen (14) days prior to the scheduled public hearing, the applicant for a new ground mounted wireless telecommunications facility or an increase in height to an existing wireless telecommunications facility by ten (10') feet or more shall fly or raise a temporary mast or balloon, at least three (3') feet in diameter, in the exact location of the proposed wireless telecommunications facility or antenna for a period of at least twelve (12) hours, the majority of which are daylight hours. The balloon float shall be advertised in a newspaper of general circulation at least fourteen (14) days prior to its happening. Written notice of the balloon float shall also be given to the Planning Department and the City Council.

#### **7.8.7 Special Permit Criteria.**

The following provisions shall be considered by the Holyoke City Council prior to the issuance of any special permits for wireless telecommunications facilities or antennas:

1. The proposed work for the wireless telecommunications facility or antenna will minimize any significant removal, filling, excavation or alteration of land;
2. The proposed work for and maintenance of the wireless telecommunications facility or antenna will not have a significant adverse effect on any watershed, aquifer, or floodplain resource;
3. The applicant for a new wireless telecommunications facility or antenna has shown that existing or previously approved wireless telecommunications facilities and antennas cannot or will not accommodate the planned wireless telecommunications facility or antenna;
4. Existing on-site vegetation will be preserved to the maximum extent possible. If the proposed wireless telecommunications facility or antenna is in an existing wooded area, the existing vegetation and forestation shall remain undisturbed for at least fifty (50') feet from the property line, with the exception of any clearance necessary to construct the access way;
5. Traffic associated with the proposed wireless telecommunications facility or antenna will not adversely affect abutting ways;
6. There will be no sign associated with the wireless telecommunications facility or antenna except to identify the owner/operator and to warn of a potential danger;
7. There will be no night lighting of the wireless telecommunications facility or antenna, except where required by the FAA;
8. The proposed wireless telecommunications facility or antenna will not be located within 500 feet on a horizontal plane to any residentially occupied structures, schools, daycare facilities, churches or playgrounds; however, should the applicant claim that the only suitable site is located within such 500 feet restricted area, the City Council may hire a consultant of their choosing, to be paid for by the applicant, pursuant to G.L. 44 s. 53(g), to determine whether or not the applicant must locate in the restricted areas; should such consultant determine that the applicant cannot locate in areas other than the 500 foot restricted area, the applicant must locate in an area farthest from residentially occupied structures, schools, day care facilities, churches, or playgrounds as possible.
9. Siting of the proposed wireless telecommunications facility or antenna will be such that the view of the facility from adjacent abutters, residential properties, and other areas of the city shall be as limited as is practicable;

10. The site will be suitably screened from abutters;

11. Access to site will be by a roadway that provides the minimum necessary safe access, meets all legal requirements, and that to the extent practicable respects the natural terrain;

**7.8.8 Annual Certification.**

Upon request, certification demonstrating continuing compliance with FCC 96-326 or its functional equivalent or subsequent modification thereof shall be filed with the Building Commissioner but not more frequently than once per year.

**7.8.9 Alterations to Wireless Telecommunications Facilities.**

The removal and replacement of antennas and/or related equipment for upgrades or repairs which does not increase the number of antennas may be undertaken subject to any requirements of the Building Commissioner without the requirement of a special permit. Any Material Modification to a Wireless Telecommunication Facility shall require an amendment to the original special permit.

**7.8.10 Removal.**

Wireless telecommunications facilities and antennas shall be removed within six (6) months of cessation of use as a wireless telecommunications facility or antenna. The applicant, upon obtaining a special permit for the purpose of erecting a wireless telecommunications facility or antenna, shall obtain a financial surety to cover the cost of removal of the wireless telecommunications facility or antenna and the remediation of the landscape, should the facility cease to operate. In the case of a telecommunication antenna being located either on a building or on an existing telecommunication tower with a certified performance bond, such surety may be waived at the discretion of the City Council. Such surety shall remain in effect throughout the life of the wireless telecommunications facility or antenna. The applicant shall provide proof of adequate surety to the City Clerk on an annual basis. Failure to provide such shall be grounds for immediate revocation of the special permit. This surety requirement shall not apply to municipally or state owned wireless telecommunications facilities or antennas.

**7.8.11 Fee.**

The above information shall be submitted to the City Clerk, together with a non-refundable application fee of \$500.00 for a new wireless telecommunication facility special permit, and \$200.00 for an antenna special permit.

## **7-9. Solar Facilities.**

### **7.9.1 Purpose.**

The purpose of this section is to establish general guidelines for the siting of solar photovoltaic facilities, hereinafter referred to as solar facilities. The goals of this section are to:

1. Promote the health, safety and general welfare of the community by allowing the generation of sustainable energy by solar facilities in order to reduce air pollution and greenhouse gases, protect environmental resources, and foster sustainable economic development.
2. Provide standards for the placement, design, construction, operation, monitoring, modification and removal of solar facilities. Such siting standards shall address public safety, minimize impacts on natural resources, and provide adequate financial assurance for the eventual decommissioning of such facilities.
3. Not prohibit or unreasonably regulate the installation of solar energy systems or the building of structures that facilitate the collection of solar energy per M.G.L. c. 40A, § 3, except where necessary to protect the public health, safety or welfare.

### **7.9.2 Applicability.**

This section applies to all solar facilities 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. This section does not apply to minor modifications or maintenance of a solar facility.

Solar facilities shall be allowed with a Special Permit of the City Council on parcels of land within the RA, R1, R1A, R2, RM-LD, RM-20, RM-40, RM-60, RO and DR zones. Solar facilities shall be allowed as-of-right in all other zones in accordance with the provisions of this Section.

### **7.9.3 Definitions.**

**As-of-right:** As-of-right shall mean that development may proceed without the need for a special permit, variance, amendment, waiver, or other discretionary approval. In permitted zones, as-of-right development will be subject to site plan review for solar photovoltaic arrays having a kilowatt direct current (kW-DC) rated nameplate capacity of greater than 250 or more to determine conformance with Holyoke's Zoning Ordinance. Projects cannot be prohibited, but can be reasonably regulated.

**Ground mounted solar facility:** A solar facility that is structurally mounted on the ground.

**Large scale ground mounted solar facility:** A solar facility that is structurally mounted on the ground and has a minimum nameplate capacity of 10 kW-DC or greater.

**Project site:** A parcel or combination of parcels, which the solar facility operator has control of, on which the solar facility is or will be located.

**Rated nameplate capacity:** The maximum rated output of electric power production equipment in direct current (DC). This output is typically specified by the manufacturer with a "nameplate" on the equipment.

**Roof mounted solar facility:** A solar facility that is structurally mounted on the roof of a building, residence, parking garage, or any other structure.

**Site plan review:** review by the planning board to determine conformance with subsection 7.9.6 of this section of Holyoke's Zoning Ordinances.

**Small scale ground mounted solar facility:** A solar facility that is structurally mounted on the ground and has a maximum nameplate capacity of less than 10 kW-DC.

**Special permit:** the permit issued by the City Council to allow the use of land for a solar facility in accordance with the provisions of M.G.L. ch. 40A.

**Solar facility:** A facility comprised of one or more solar panels, as well as all access roads and appurtenant structures.

#### 7.9.4 General requirements.

1. **Large scale ground mounted solar facilities:** Large scale ground mounted solar facilities shall be allowed with a special permit of the City Council and site plan review approval by the planning board on parcels of land within the RA, R1, R1A, R2, RM-LD, RM-20, RM-40, RM-60, RO and DR zones, and allowed as-of-right in all other zones with site plan review from the planning board pursuant to this section, subject to the following conditions:
  - a. *Site plan review.* No large scale ground mounted solar facility shall be constructed, installed or modified as provided in this section without first obtaining a special permit of the City Council and/or site plan review approval by the Holyoke Planning Board in compliance with subsections 7.9.5 and 7.9.6 of this section.
  - b. *Monitoring and maintenance.* The solar facility shall comply with subsection 7.9.8 of this section.
  - c. *Site control.* The applicant shall submit with its application for a special permit and/or site plan review, documentation of actual or prospective control of the project site sufficient to allow for installation and use of the proposed facility. Notice of change of ownership shall be given to the city council and/or planning board in compliance with subsection 7.9.9 of this section.
  - d. *Financial surety.* The applicant shall provide a financial surety if so required by the city council and/or planning board as determined in compliance with subsection 7.9.10 of this section.
    - i. The financial surety provided by the applicant shall include a surety in the amount of the estimated cost of the landscaping improvements, which surety may be used by the City in the event the landscaping is not completed as approved.
  - e. *Compliance with laws, ordinances and regulations.* The construction and operation of all large scale ground mounted solar facilities shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, electrical and communications requirements.
  - f. *Proof of liability insurance.* The applicant shall be required to provide evidence of liability insurance in an amount sufficient to cover loss or damage to persons and structures occasioned by the failure of the facility.
2. **Small scale ground mounted solar facilities.** Small scale ground mounted solar facilities shall be allowed with a special permit of the city Council on parcels of land within the RA, R1, R1A, R2, RM-LD, RM-20, RM-40, RM-60, RO and DR zones , and as-of-right with a building permit in all zones provided that they meet the following conditions:
  - a. *Compliance with laws, ordinances and regulations.* The construction and operation of all small scale ground mounted solar facilities shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, electrical and communications requirements.
  - b. *Proof of liability insurance.* The applicant shall be required to provide evidence of liability insurance to the building commissioner in an amount sufficient to cover loss or damage to persons and structures occasioned by the failure of the facility.
  - c. *Design standards.* The solar facility shall comply with subsection 7.9.6.2 design standards and subsection 7.9.6.3 environmental standards where applicable.
  - d. *Monitoring and maintenance.* The solar facility shall comply with subsection 7.9.8 of this section.
  - e. *Landscaping surety.* The applicant shall provide a financial surety in the amount of the estimated cost of the landscaping improvements, which surety may be used by the City in the event the landscaping is not completed as approved.
3. **Roof mounted solar facilities.** Roof mounted solar facilities shall be allowed as-of-right with a building permit in all zones provided that they meet the following conditions:
  - a. *Compliance with laws, ordinances and regulations.* The construction and operation of all roof mounted solar facilities shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, electrical and communications requirements.

- b. *Proof of liability insurance.* The applicant shall be required to provide evidence of liability insurance to the building commissioner in an amount sufficient to cover loss or damage to persons and structures occasioned by the failure of the facility.
- c. *Structural engineering report.* A structural engineering report may be required by the building commissioner illustrating the structural integrity of the structure and its ability to support the proposed roof mounted solar facility.
- d. *Monitoring and maintenance.* The solar facility shall comply with subsection 7.9.8 of this section.

### **7.9.5 Special Permit.**

1. **Submittal requirements.** The project proponent is required to provide to the Holyoke City Council with the following;
  - a. Two (2) original applications;
  - b. Required Fee and publication costs of the public hearing notice; and
  - c. A plot plan acceptable to the City Council showing the location of the lot,
 

the lot dimensions, vegetative buffering, and location and size of the proposed ground mounted solar facility

### **2. Special Permit Criteria:**

A special permit may be granted where the City Council finds that the benefit to the city and the neighborhood outweigh the adverse effects of the proposed use, taking into account the characteristics of the site and of the proposal in relation to that site. In addition to any specific factors that may be set forth in this ordinance, the determination shall include consideration of each of the following:

- a. Social, economic, or community needs which are served by the proposal;
- b. Traffic flow and safety, including parking and loading;
- c. Adequacy of utilities and other public services;
- d. Neighborhood character and social structures;
- e. Impacts on the natural environment;
- f. Potential fiscal impact, including impact on city services, tax base, and employment; and
- g. To provide and maintain adequate screening via improved landscaping.

### **7.9.6 Site Plan Review.**

1. **Submittal requirements.** The project proponent is required to provide the Holyoke Planning Board with the following:
  - a. *Application.* Two original application forms and a designer's certificate.
  - b. *Fee.* Required fee.
  - c. *Siting and design.* Eight full copies of a site plan. The plan shall be on 24" × 36" sheets at a scale of 1"=40' or 1"=200', as appropriate, on as many sheets as necessary. Site plans shall be prepared by a Massachusetts licensed professional engineer and/or a registered land surveyor, as applicable. The site plan shall include the following:
    - 1) *Location map.* Copy of the most recent USGS quadrangle map, at a scale of 1:25,000, showing the proposed facility site and the area within at least two miles from the facility.
    - 2) *Site plan.* A one inch equals 200 feet plan of the proposed solar facility site, with contour intervals of no more than ten feet, showing the following:

- a. Property lines and physical dimensions of the project site and adjacent parcels within 100 feet of the project site;
  - b. Location of permanent structures or buildings on the project site and on adjacent parcels of the project site;
  - c. Location and details of all security measures for the site; and
  - d. Location of all existing and proposed roads, both public and private, on the project site.
- 3) *Project plan.* A plan indicating all proposed changes to the landscape of the site, including temporary or permanent roads or driveways, grading, vegetation clearing and planting, exterior lighting, screening vegetation or structures shall include the following:
- a. Proposed changes to the landscape of the site, grading, vegetation to be removed or altered, amenities such as lighting or fencing, screening vegetation or structures, and wetlands delineation. Lighting shall be designed to minimize glare on abutting properties and be directed downward with full cutoff fixtures to reduce light pollution;
  - b. Location of the ground mounted solar facility, type of mounting devices, access roads, lighting, ground equipment, fencing, electrical infrastructure, and associated equipment;
  - c. Plans for accessory buildings or other structures, and location and details of all planned security measures;
  - d. Layout and details of surfacing for access roads and parking including temporary roads and staging areas; and
  - e. Any existing overhead utility lines.
- d. *Operation and maintenance plan.* The applicant shall submit a plan for the general maintenance of access roads and stormwater controls, as well as general procedures for operational maintenance of the ground mounted solar facility.
- e. Schematics.
- a. Schematic or blueprints of the ground mounted solar facility signed by a professional engineer licensed to practice in the Commonwealth of Massachusetts showing the proposed structures and any shading from nearby structures;
  - b. Schematic or outline electrical diagram showing proposed solar panels, associated components and electrical interconnection methods, all with National Electrical Code compliant disconnects and overcurrent devices;
  - c. Description of the major system components to be used including the photovoltaic panels, mounting system and inverter.
- f. *Compliance documents.* The applicant will provide the following with the application:
- a. A description of financial surety that satisfies subsection 7.9.10.3 of this section;
  - b. Proof of liability insurance that satisfies subsection 7.9.4 of this section;
  - c. Name, address, and contact information for:
    - i. Proposed system installer,
    - ii. The landowner,
    - ii. The project proponent, as well as all co-proponents; and



- iv. Any agents representing the applicant.
- d. Evidence of utility notification that satisfies subsection 7.9.8.2 of this section.
- g. Notification.
  - a. List of property owners and their addresses for all parcels of land within 300 feet of the project site, to be obtained from the most recent property list from the Holyoke Assessor's Office;
  - b. Provide stamped A10 sized envelopes representing twice the number of abutters listed above to be used by the planning board to mail notice of the site plan review hearing and notice of decision.
  - c. The applicant shall be responsible for the cost of publication of the public hearing notice.
- h. *Waiver of documents.* The planning board reserves the right to waive documentary requirements as it deems appropriate.

## 2. Design standards.

- a. *Screening.* A ground mounted solar facility shall be screened, to the extent possible, from abutting properties.
  - (a) *General.* Screening shall consist of landscaping, fence, grassed earthen berm, or some combination of these screening devices. If utilizing a natural buffer, it shall be maintained above the highest level of the solar panels. When a screen consists of plant materials, said materials shall provide screening at the time of planting and be of a type that will be expected to form a year-round, dense screen.
  - (b) *Abutting residential uses.* When such facility is directly abutting existing residential uses, such screening shall consist of:
    - (1) Project site of less than two acres: Screening as determined to be adequate in the form of either vegetation or fencing.
    - (2) Project site of between two and five acres: A minimum of 50 feet of vegetation buffer with 25 feet being undisturbed closest to the residential property, and the other 25 feet being allowed to be selectively cleared.
    - (3) Project site of greater than five acres: A minimum of 100 feet of vegetation buffer with 50 feet being undisturbed closest to the residential property, and the other 50 feet being allowed to be selectively cleared.
    - (4) Permit for screening reduction: An applicant may request permission to reduce such buffer requirements in such instances it is determined to not have a detrimental effect to the abutters and in such instances where the buffer will have a detrimental effect on the ability to generate power.
  - (c) *Abutting nonresidential uses including public accepted streets.* Screening as determined to be adequate in the form of either vegetation or fencing.
- b. *Lighting.* Lighting of solar facilities shall be consistent with local, state and federal law and shall further be directed downward and shall incorporate full cut-off fixtures to reduce light pollution. Lighting of other parts of the installation, such as appurtenant structures shall be limited to that required for safety and operational purposes and shall be shielded from abutting properties.
- c. *Signage.* Signs on the solar facility shall comply with the requirements of the city's sign regulations, and shall be limited to:

- (1) Those necessary to identify the owner, provide a 24-hour emergency contact phone number, and warn of any danger.
  - (2) Educational signs providing information about the facility and the benefits of renewable energy.
  - (3) Solar panels shall not be used for displaying any advertising signage, except for any labeling or identification by the manufacturer and/or operator of the solar facility.
- d. *Utility connections.* Reasonable efforts should be made to locate utility connections for ground mounted solar facilities underground, depending on appropriate soil conditions, shape and topography of the site and any requirements of the utility provider. Electrical transformers for utility interconnections may be above ground, if required by the utility provider. All solar facility installations shall conform to the requirements of the interconnection agreement and/or such further requirements as may be promulgated from time to time, as appropriate and as approved by the connecting utility.
  - e. *Appurtenant structures.* All such appurtenant structures, including but not limited to, equipment shelters, storage facilities, transformers and substations, shall be architecturally compatible with each other. Structures should be shaded from view by vegetation and/or joined or clustered to avoid adverse visual impacts. Appurtenance structures shall meet the regulations for accessory structures as found in section 4.4 of the zoning ordinance.
  - f. *Emergency services.* The applicant shall provide a copy of the project summary and site plan to the local emergency planning committee (LEPC). The applicant shall cooperate with the LEPC in developing an emergency response plan. All means of disconnecting the solar facility shall be clearly marked. The applicant or facility owner shall identify a responsible person for public inquiries or complaints throughout the life of the project.
  - g. *Unauthorized access.* All solar facilities shall be designed to prevent unauthorized access in compliance with any and all federal, state and local regulations. Electrical equipment shall be locked where possible. Video surveillance cameras shall be oriented in such a fashion so as to minimize capturing activity outside the solar facility.

### 3. Environmental standards.

- a. *Land clearing.* Clearing of natural vegetation shall be limited to what is necessary for the construction, access to, operation and maintenance of the ground mounted solar facility or otherwise prescribed by applicable laws, regulations and ordinances.
- b. *Rare and endangered species.* The applicant shall provide evidence of compliance with the Massachusetts Endangered Species Act and requirements of the Commonwealth of [Massachusetts] Natural Heritage and Endangered Species Program.
- c. *Wetlands.* The applicant shall provide evidence of compliance with the Massachusetts Wetlands Protection Act, the Massachusetts Rivers Protection Act and the City of Holyoke Wetlands Protection Ordinance.
- d. *Stormwater.* The applicant shall demonstrate compliance with all local, state and federal stormwater management laws and regulations.
- e. *Water resource protection overlay district (WRPOD).* If a large scale ground mounted solar facility is located within the WRPOD I or II as illustrated on the Holyoke Zoning Map, the applicant must present the project to the Barnes Aquifer Protection Advisory Committee.

**7.9.7 Action by the Planning Board.** Site plan review shall be conducted in accordance with the notice, hearing and filing procedures set forth in M.G.L. c. 40A for special permits, except as otherwise set forth in this section 7-9. After determining if the site plan is in conformance with the requirements of this ordinance, and after considering the criteria set forth in this section 7-9, the planning board may approve, approve with modifications, or disapprove the site plan application or grant leave to withdraw. Approval may be subject to any conditions, modifications and/or restrictions as the planning board may deem necessary. Leave to withdraw or disapproval by the planning board must be supported by written findings.

### **7.9.8 Monitoring and maintenance.**

1. *Facility conditions.* The applicant shall maintain the solar facility in good condition. Maintenance shall include but not be limited to vegetation upkeep, structural repairs and the integrity of security measures. Site access shall be maintained to a level acceptable to the local fire chief, local emergency planning committee and emergency medical services. The project owner shall be responsible for the cost of maintaining the solar facility and any access road, unless accepted as a public way, and the cost of repairing any damage as a result of operation and construction. The project owner shall also be responsible for ensuring that the solar facility does not at anytime lower the quality of service supplied to nearby customers or cause safety problems to the interconnected electrical grid.
2. *Utility notification.* Before installation of the solar facility, the applicant shall inform the utility company that operates the electrical grid where the facility is to be located of its intent to install an interconnected generator and shall satisfy all interconnection agreements.
3. *Modifications.* All material modifications to a large scale ground mounted solar facility, other than regular maintenance, made after issuance of the site plan review approval shall require approval by the planning board as provided in this section.

**7.9.9 Change in ownership.** If the owner and/or operator of a large scale ground mounted solar facility changes, notice shall be given to the planning board with the contact information of the new owner/operator within one month of the change in ownership and/or operations.

### **7.9.10 Abandonment or decommissioning.**

1. *Removal requirements.* Any large scale ground mounted solar facility which has reached the end of its useful life or has been abandoned consistent with subsection 7.9.10.2 of 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 planning board by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of:
  - a. Physical removal of all solar panels, structures, equipment, security barriers and electrical 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 planning board may allow the owner or operator to leave landscaping, designated below-grade foundations or service roads in order to minimize erosion and disruption to vegetation.
2. *Abandonment.* Absent notice of a proposed date of decommissioning, the large scale ground mounted solar facility shall be considered abandoned when the facility fails to operate for more than one year without written consent of the planning board. The planning board shall determine in its decision what proportion of the facility is inoperable for the facility to be considered abandoned. If the applicant fails to remove the large scale ground mounted solar facility in accordance with the requirements of this section within 150 days of abandonment or the proposed date of decommissioning, the city shall have the authority to enter the property and physically remove the facility.
3. *Financial surety.* The planning board shall require the applicant for a large scale ground mounted solar facility to provide a form of surety, either through escrow account, bond or otherwise, to cover the estimated cost of removal in the event that the city must remove the facility, of an amount and form determined to be reasonable by the planning board, but in no event to exceed more than 125 percent of the estimated cost of removal and compliance with the additional requirements set fourth herein, as reasonably determined by the applicant. Such surety will not be required for municipally or state owned facilities. The applicant shall submit a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer. The amount shall include a mechanism for a cost of living adjustment.
  - a. The financial surety provided by the applicant shall include a surety in the amount of the estimated cost of the landscaping improvements, which surety may be used by the City in the event the landscaping is not completed as approved.

## **7.10 MEDICAL MARIJUANA FACILITIES**

### **7.10.1 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).

### **7.10.2 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.

### **7.10.3 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.

### **7.10.4 Permitted Districts.**

Medical Marijuana Treatment Center/Registered Marijuana Dispensary (RMD) and Off-Site Medical Marijuana Dispensary (OMMD):

- General Industry (IG) - Special Permit of the City Council

### **7.10.5 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 6.4 "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.

#### **7.10.6 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.
  - h) A Development Impact Statement containing all the information required under Section 10.1.6 (1) of the Zoning Ordinance.
  - i) A Traffic Impact Statement containing all fo the information required under Section 10.1.6 (2) of the Zoning Ordinance.

- 2) *Site 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, Engineering Department, Water Department, Board of Health, Planning Board and the Stormwater Authority 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) *New construction*: in cases of new construction, in addition to the requirements of this Section, see Section 10.0 SITE PLAN REVIEW of the Holyoke Zoning Ordinance. The Applicant may need to file with the Stormwater Authority, a Stormwater Management Permit Application, per the Stormwater Regulations.

#### **7.10.7 Findings.**

- 1) In addition to the standard Findings for a Special Permit under Section 9.3.2, 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 its impact on neighboring uses.

#### **7.10.8 Enforcement.**

Any violation of this Section shall be enforced in accordance with Section 9-1 of the Zoning Ordinance.

## **SECTION 8.0 SPECIAL DISTRICTS**

### **8.1 FLOODPLAIN OVERLAY DISTRICT (FOD)**

#### **8.1.1 Establishment.**

The Floodplain District is herein established as an overlay district (“FOD”). The District includes all special flood hazard areas within the City of Holyoke designated as Zone A and AE on the Hampden County Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The map panels of the Hampden County FIRM that are wholly or partially within the City of Holyoke are panel numbers 25013C0069E, 25013C0086E, 25013C0088E, 25013C0180E, 25013C0181E, 25013C0182E, 25013C0183E, 25013C0184E, 25013C0191E, 25013C0192E, 25013C0201E, 25013C0203E, 25013C0204E, and 25013C0211E, dated July 16, 2013. 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 Hampden County Flood Insurance Study (FIS) report dated July 16, 2013. The FIRM and FIS report are incorporated herein by reference and are on file with the City Clerk, Planning Board, and Building Commissioner.

Prior to July 16, 2013, the August 15, 1979, maps shall remain in effect for purposes of this ordinance.

Said FOD overlays the classes of districts or any portion of said classes of districts which are part of this ordinance and supersedes any less restrictive requirements set forth therein.

#### **8.1.2 Special Permit.**

Unless otherwise prohibited herein, new construction is allowed within the FOD only by special permit from the City Council for any use set forth in Section 4.3 that is allowed in the underlying zone. Provided, however, that no special permit shall be required for new construction that is exempt from building permit requirements or for substantial improvements to existing structures as defined in section 8.1.4.

#### **8.1.3 Prohibited Uses.**

The following uses shall be prohibited:

1. Quarrying or other extraction operation for commercial purposes.
2. Outdoor storage of de-icing chemicals or dumping of snow contaminated with de-icing chemicals.
3. Any operation of entity producing, handling, or storing hazardous material, hazardous waste, hazardous chemicals, or infectious waste, or any other substance or material designated by the U.S. Environmental Protection Agency (40 C.F.R. Part 250) or the Massachusetts Hazardous Waste Management Act, G.L. c. 21C, that may pose a threat to the environment or public health.
4. Planned unit developments, except where they are served by a public surface reservoir water distribution system and a public sewer system, and only up to the density of the overlying district.
5. Disposal or storage of solid wastes other than brush and stumps; all uses that generate hazardous waste; storage and/or transmission of oil, gasoline, and chemicals in corrodible containers and pipelines.
6. Underground storage of petroleum products, except for propane or natural gas; outdoor storage of pesticides or herbicides; uncontained storage of manure or other water pollutant.
7. Any automobile or vehicle related use, including but not limited to: trucking or bus terminals, motor vehicle light service, repair or body shops, motor petroleum product sales, automobile sales lots and automobile junk and salvage yards.
8. Drainage, dredging, excavation, filling with, or disposal of soil, mineral substances, or grading, impoundments, dams, or other water obstructions, cutting or clearing of trees or other vegetation within fifty (50) feet of the top of the bank of the waterway, with the exception of trees which are threatening the integrity of the bank or flood control structures or are diseased and threaten other nearby vegetation, unless these uses are necessary for permitted uses or uses allowed by special permit and/or the Wetlands Protection Act.

9. Mobile home park.

10. Any Use and Occupancy Classification within the High Hazard Group as defined by the Massachusetts Building Code.

#### **8.1.4 Existing Structures.**

Any structure standing in the FOD at the time of passage of these provisions:

1. Is allowed to lawfully remain, and may be altered or enlarged, provided the alteration or enlargement is not a substantial improvement and as long as the alteration or enlargement is consistent with this ordinance;
2. May be substantially improved by special permit;
3. May be converted to a use that is substantially less detrimental than the existing use; and
4. May be repaired or rebuilt if it is damaged by fire, flood or other natural cause provided that the restoration does not constitute a substantial improvement and provided that the restoration conforms to the dimensional controls of the district wherein it is located and results in the same use as existed prior to the damage.

For purposes of this Section, “substantial improvement” shall be defined by the Massachusetts Building Code and the International Building Code, where applicable.

#### **8.1.5 Criteria for Issuance of Special Permit for Construction or Substantial Improvement of Structures in the FOD.**

The City Council may grant a special permit in accordance with section 9.3 of this ordinance for new construction or substantial improvement of an existing structure in the FOD upon finding that the following minimum conditions are met:

1. The use is designed in a manner consistent with the need to prevent flood damage to the existing property, neighboring properties and the general public.
2. Granting the special permit will not result in increased flood heights, additional threats to public safety, water pollution, erosion and sedimentation, or cause a nuisance.
3. Other lands in the district will not be adversely affected by the proposed development, through increased height or velocity of future floods, and the supporting infrastructure will be sufficient to accommodate the use during and after a flood event without endangering other properties.
4. All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage and infiltration of flood waters into the system; and the containment of sewage, safety of gas, electric fuel and other utilities from breaking, leaking, short-circuiting, grounding, igniting, electrocuting, or any other dangers due to flooding are adequately protected.
5. The proposed use complies in all respects to the requirements of the underlying District in which the land is located.
6. The proposed use demonstrates evidence of compliance with all applicable local, state and federal laws, including the Erosion and Sediment Control Ordinance, the Holyoke Stormwater Ordinance, Massachusetts Building Code and the Massachusetts Wetlands Protection Act.
7. The Planning Board shall investigate the application and must make a report in writing within thirty (30) days. The remaining boards, departments, and or officers shall investigate the application and may make a report in writing within thirty (30) days. The City Council shall not take final action until receipt of these reports or thirty (30) days have elapsed.



### **8.1.6 Special Permit Procedures.**

1. Six copies and a digital copy of a site plan are filed with the City Clerk concurrent with the application for a special permit, one (1) each for the City Council, Planning Department, Board of Health, Building Department, Conservation Commission and City Engineer. Said site plan shall be certified by a registered professional engineer or architect insuring that all requirements of the Massachusetts State Building Code pertaining to design requirements for floodplains are met. The Building Commissioner will review the application for completeness within ten (10) business days of receipt. If complete, the City Clerk will forward the application and associated documents to the departments within ten (10) business days of receipt of confirmation of completeness. If incomplete, the City Clerk will notify the applicant within ten (10) business days of notification from the Building Commissioner.
2. Concurrent with said application, information must be filed indicating: the elevations, in relation to mean sea level, of the lowest floor, including basement or cellar, whether or not the structure will have a basement or cellar; if the structure will be flood proofed, the elevation in relation to mean sea level to which the building will be flood proofed; a summary or narrative from a Professional Engineer, registered in the Commonwealth of Massachusetts, regarding compliance with the requirements of section 8.1.5 of this ordinance; and any other documentation requested by the Building Commissioner.
3. Special permits granted under these provisions shall be contingent upon the applicant receiving all necessary permits from those government agencies from which approval is required under federal, state and local law, and shall be contingent upon compliance with all applicable federal, state and local laws and regulations.
4. As required by section 8.1.5(7), the Planning Board shall investigate the application and must make a report in writing within thirty (30) days. The remaining boards, departments, and or officers shall investigate the application and may make a report in writing within thirty (30) days. The City Council shall not take final action until receipt of these reports or thirty (30) days have elapsed. If granted, the special permit shall be contingent upon adherence to the site plan and any conditions made a part thereof. Any departure there from without permission of the City Council shall result in revocation of the special permit.

### **8.1.7 Base Flood Elevation and Floodway Data.**

1. 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.
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.

### **8.1.8 Notification of Watercourse Alteration.**

In a riverine situation, the Conservation Director 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

### **8.1.9 Use Regulations.**

1. In Zone AE, along watercourses that have a regulatory floodway designated within the City of Holyoke on the Hampden County FIRM encroachments are prohibited in the regulatory floodway which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.
2. 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.

### **8.1.10 Purpose.**

The purpose of the Floodplain Overlay District is to:

1. Conform to State and Federal requirements for defining such a district in accordance with FEMA and MEMA data to allow property owners to access the National Flood Insurance Program and other related benefits.
2. To guide development within the District such that appropriate measures are taken into account regarding flood and water damage risk to life and property.
3. To prevent uses at risk of contaminating rivers, streams and wetlands during flood events.

**8.2 WATER RESOURCE PROTECTION OVERLAY DISTRICT (WRPOD)**

**8.2.1 Purpose.**

The purpose of the Water Resource Protection Overlay District is:

1. to promote the health, safety, and general welfare of the community by ensuring an adequate quality and quantity of drinking water for the residents, institutions, and businesses;
2. to preserve and protect existing and potential sources of drinking water supplies;
3. to conserve the natural resources of the city; and
4. to prevent temporary and permanent contamination of the environment.

**8.2.2 Establishment of District.**

The WRPOD are herein established as overlay districts. The WRPOD are described on the Official Zoning Map with district boundary lines prepared by the Massachusetts Department of Environmental Protection. All maps are hereby made a part of this Zoning Ordinance and are on file in the office of the City Clerk.

**8.2.3 Boundary Disputes.**

Where the bounds of the WRPOD are in dispute, as delineated on the WRPOD Map, the burden of proof shall be upon the owners of the land in question to show where they should properly be located. Resolution of boundary disputes shall be through a special permit application to the Planning Board. Any application for a special permit under this section shall be accompanied by documentation prepared by a person who meets the following two requirements:

- \* Is experienced in delineating hydrogeologic zones in Massachusetts; and
- \* Has one (1) of the following credentials:

TITLE	CONFERRING ENTITY
Registered Professional Hydrogeologist	American Institute of Hydrology
Certified Professional Geologic Scientist	American Institute of Professional Geological Scientists
Registered Professional Engineer, Sanitary	Commonwealth of Massachusetts
Certified Ground Water Professional	Association of Ground Water Scientists and Engineers
Certified Professional Soil Scientist	American Registry of Certified Professionals in Agronomy, Crops, and Soils, Ltd.

1. WRPOD II Boundary Disputes. Where the WRPOD II is bounded by: (a) that area of the aquifer that contributes water to a public water supply well or wellfield under the most severe pumping and recharge conditions than can realistically be anticipated, as set forth in 310 CMR 22.02's definition of "Zone II," the applicant shall provide information in substantial conformance with the criteria set forth in 310 CMR 22.00, as administered by the Massachusetts Department of Environmental Protection, to show where the boundary should properly be located; (b) an Interim Wellhead Protection Area, the applicant shall provide the results of a survey by a registered surveyor; (c) a medium yield aquifer having a transmissivity of 1,350-4,000 ft<sup>2</sup>/d (potential well yield 100 to 300 gal/min), the applicant shall provide geologic and hydrologic information to show transmissivity rates at the subject property.
2. WRPOD III Boundary Disputes. The applicant shall provide information in substantial conformance with the criteria set forth in 310 CMR 22.00 for the delineation of "Zone III", as administered by the Massachusetts Department of Environmental Protection, to show where the boundary should properly be located.

3. The Planning Board shall not grant a special permit under this section unless the applicant demonstrates that the provisions governing the Water Resource Protection District(s), under this Article VII may be waived without detrimental effect to water quality as specified herein.

#### **8.2.4 Dimensional and Use Regulations.**

Development within the Water Resource Protection Overlay District must comply with special Use and Dimensional Regulations as follows:

- A. Dimensional Regulations. Development within the Water Resource Protection Overlay District must comply with the following dimensional requirements.
  1. Aquifer Recharge Area (WRPOD I, II, III) Within the aquifer recharge area, maximum land coverage calculations shall include impervious surface with area over 100 square feet. Except for lots specially exempted by M.G.L. c. 40A, s. 6, within the aquifer recharge area the minimum lot size is established by the following:
    - a. Two acres per lot with 200 feet of frontage, unless the lot is served by a public sewer and water system in which case the lot size shall be at least 20,000 square feet with 100 feet frontage. The minimum lot size may be reduced to 12,500 square feet if the lots so created are part of a flexible development as regulated under the provisions of Section 7.5 of this ordinance and each lot so created is served by public water and sewer as required above.
    - b. The minimum lot area required elsewhere in this ordinance if it is greater than (a) above.
  2. Water Protection Area (WRPOD A,B,C). Within the water protection area, maximum land coverage calculations shall include impervious surfaces with area over 100 square feet and shall be no greater than twenty (20%) percent of the lot. Except for lots specifically exempt by M.G.L. c. 40A, s. 6, within the water protection area, the minimum lot size is established by the following:
    - a. Forty thousand (40,000) square feet per lot with 150 feet of frontage unless the lot is served by public sewer and water systems, in which case the area shall be at least 20,000 square feet per lot with 100 feet frontage.
    - b. The minimum lot area required elsewhere in the ordinance if it is greater than (a) above.
- B. Use Regulations.

The WRPOD are overlay districts superimposed over the underlying districts set forth in this Zoning Ordinance. Within a WRPOD, the requirements of the underlying district continue to apply, except where the requirements of the WRPOD are more stringent.

  1. Uses within WRPOD I. Uses within WRPOD I shall be governed by the standards set forth in 310 CMR 22.00 with regard to "Zone I" therein.
  2. Uses within the WRPODs. Uses are prohibited where indicated by "N" in the following schedule, and require a special permit where indicated by "SP", even where the underlying district requirements are more permissive. Uses permitted in a WRPOD are indicated by "Y". Where a portion of the lot is located partially within WRPOD III and partially outside the WRPOD, site design shall, to the extent feasible, locate potential pollution sources outside the WRPOD boundaries.

<b>1. PRINCIPAL USES</b>	<b>WRPOD II</b>	<b>WRPOD III</b>
(a) Manufacture, use, storage, transport, or disposal of hazardous materials as a principal activity	N	N
(b) Landfills and open dumps	N	N
(c) Automobile graveyards and junkyards	N	N
(d) Wastewater treatment works for nonsanitary wastewaters that are subject to 314 CMR 5.00, including privately owned facilities, except the following: (1) replacement or repair of existing system(s) that will not result in a design capacity greater than the design capacity of the existing system(s)	N	SP
(e) Wastewater treatment works for sanitary wastewaters that are subject to 314 CMR 5.00, including privately owned facilities	SP	SP
(f) Landfilling of sludge and septage	N	N
(g) Storage of sludge and septage	SP	SP
(h) Road salt stockpile or storage of other de-icing chemicals in the following manner: (1) outside a structure (2) within a structure designed to prevent the generation and escape of contaminated runoff or leachate	N SP	N SP
(i) Motor vehicle light service, motor vehicle general repair or body repair shop, marine repair shop, car wash	N	SP
(j) Earth removal; provided, however, that no earth removal shall take place within 6 feet of historical high groundwater as determined from monitoring wells and historical table fluctuation data compiled by the USGS, except for excavations for building foundations, roads or utility works, unless the substances removed are redeposited within 45 days of removal to achieve a final grading greater than 6 feet above the historical high groundwater mark	SP	SP
(k) Any building, structure, or use, other than single family dwelling with accessory structures and uses, to be served by on-site wastewater disposal system with a design capacity of greater than 10,000 gallons per day	SP	SP
<b>2. ACCESSORY USES</b>	<b>WRPOD II</b>	<b>WRPOD III</b>
(a) Underground storage of hazardous materials, including fuel oil and gasoline	N	SP
(b) Aboveground storage of hazardous materials in quantities greater than associated with normal household use, other than fuel oil for residential heating purposes	SP	SP
(c) Any use generating hazardous wastes in quantities greater than associated with normal household use, except the following: (1) very small quantity generators, as defined by 310 CMR 30.00; (2) household hazardous waste collection centers or events operated pursuant to 310 CMR 30.390; (3) waste oil retention facilities required by G.L. c. 21, s. 52A; (4) treatment works approved by the DEP for treatment of contaminated ground or surface waters	N	SP
(d) Storage of animal manure. Within WRPOD II, such storage must be within an enclosed building or contained in accordance with the specifications of the U.S. Soil Conservation Service	SP	Y

(e) Storage of commercial fertilizers and soil conditioners. Within WRPOD II, such storage must be within a structure designed to prevent the generation and escape of contaminated runoff or leachate	SP	Y
<b>3. OTHER USES</b>	<b>WRPOD II</b>	<b>WRPOD III</b>
(a) Rendering impervious more than 15 percent of the lot, or 2500 sq. ft., whichever is greater, excluding operations associated with the construction or occupancy of a single family dwelling	SP	SP
(b) Stockpiling and disposal of snow and ice containing de-icing chemicals if brought in from outside the district	N	SP
(c) Industrial and commercial uses which discharge process wastewater on-site	SP	SP

### 8.2.5 Special Permit Procedures.

1. **Special Permit Granting Authority.** The Special Permit Granting Authority (SPGA) shall be the Planning Board. Such special permit may be granted if the SPGA determines that the intent of this Section 8.2 as well as the specific criteria herein are met. In making such determination, the SPGA shall give consideration to the simplicity, reliability, and feasibility of the control measures proposed and the degree of threat to groundwater quality which would result if the control measures failed.
2. **Review by Other Boards and Officials.** Whenever an application for a special permit is filed with the Planning Board hereunder, said board shall transmit within six (6) working days of the filing of the completed application, copies of the application, accompanying site plan, and other documentation, to the Board of Health, Conservation Commission, Building Commissioner, Director of Public Works, Fire Chief, and the City Engineer for their consideration, review, and report. The copies necessary to fulfill this requirement shall be furnished by the applicant. An application shall not be deemed complete until all copies of required information and documentation have been filed with the Planning Board. The Planning Board shall notify applicants by registered mail, within fourteen (14) days of submittal, of incomplete application status, and the applicant shall have fourteen (14) days from the mailing of such notice to complete an application. Failure to complete an application within such time shall result in a return of all materials to the applicant, without prejudice. Reports from other boards and officials shall be submitted to the Planning Board by the date of the Public Hearing, but in any case within thirty-five (35) days of receipt of the reviewing party of all of the required materials; failure of these reviewing parties to make recommendations after having received copies of all such required materials shall be deemed a lack of opposition thereto. In the event that the Public Hearing by the Planning Board is held prior to the expiration of the thirty-five (35) day period, the Planning Board shall continue the Public Hearing to permit the formal submission of reports and recommendations within that thirty-five (35) day period. The Decision/Findings of the Planning Board shall contain, in writing, an explanation for any departures from the recommendations of any reviewing party.
3. **Applicability.** Any special permit required under this Article VII shall be in addition to, and separate from, any other special permit required under this By-Law.
4. **Submittals.** All applications for special permits shall contain the information listed below, unless waived or modified by the SPGA, with reasons therefor.
  - a. A site plan, submitted on 24-inch by 36-inch sheets, on a minimum scale of one inch (1") equals forty (40') feet, and prepared by a Registered Professional Engineer and a Registered Land Surveyor. Site plans submitted under this section shall also include the following:
    - (1) All property lines;
    - (2) All adjacent public streets;
    - (3) All existing and proposed buildings, structures, parking areas, and service areas;
    - (4) All facilities for sewage, refuse, and other waste disposal;
    - (5) Facilities for surface water drainage, both temporary and permanent;
    - (6) Future expansion areas.

- b. A narrative statement detailing all of the information set forth below, if applicable:
- (1) A complete list of all chemicals, pesticides, fuels, or other potentially hazardous materials, including but not limited to road salt or de-icing chemicals, manure, and fertilizers or soil conditioners, to be used or stored on the premises in quantities greater than associated with normal household use, accompanied by a description of the measures proposed to protect all storage containers from vandalism, corrosion, and leakage, and to provide for control of spills.
  - (2) A description of all potentially hazardous wastes to be generated in quantities greater than associated with normal household use, accompanied by a description of the measures proposed to protect all waste storage containers from vandalism, corrosion, and leakage, and to provide for control of spills.
  - (3) For underground or aboveground storage of hazardous materials, certification by a Registered Professional Engineer that such storage facilities or containers are (i) in compliance with all applicable federal or state regulations, (ii) in compliance with design specifications, as prepared by a Registered Professional Engineer, and (iii) are designed with secondary containment adequate to contain a spill the size of the container's total storage capacity.
  - (4) For any proposed activity on a lot which will render more than fifteen (15%) percent of the total lot area or more than 2,500 sq. ft. impervious, a system for groundwater recharge must be provided that does not degrade groundwater quality, by stormwater infiltration basins or similar system covered with natural vegetation. Dry wells shall be used only where other methods are infeasible. Such basins and wells shall be preceded by oil, grease and sediment traps to facilitate removal of contaminants.
  - (5) For stockpiling or disposal of snow from outside the district, earth removal, storage of sludge or septage, manure storage, treatment works, and/or discharge or process wastewater, a narrative statement, prepared by a Registered Professional Engineer, assessing the impacts, if any, of the proposed activity on groundwater and surface water quality on the premises, adjacent to the premises, and on any wellfield(s) downgradient from the proposed activity or use, accompanied by a description of the measures proposed to protect such wellfields.

#### **8.2.6 Special Permit Criteria.**

Special permits shall be granted only if the SPGA determines, after reviewing the recommendations of the reviewing parties set forth above, that groundwater quality resulting from on-site wastewater disposal or other operations on-site shall not fall below the more restrictive of federal or state standards for drinking water, or, if existing groundwater quality is already below those standards, on-site disposal or operations shall result in no further deterioration.

#### **8.2.7 Decision.**

The Planning Board may approve, approve with conditions, or deny an application for a special permit that is governed, in any manner, by the provisions of this Section 8.2.

### 8.3 SHOPPING CENTER DISTRICTS (SC)

#### 8.3.1 Purpose.

The shopping center district is established in order to provide for neighborhood, community and regional shopping facilities in an appropriate location with an appropriate design, scale and intensity which will create a harmonious and functional relationship with the immediate surroundings and community. These regulations shall only apply to shopping centers that are developed in the specific geographic areas where the shopping center district has been lawfully imposed pursuant to G.L. c. 40A, s. 5.

#### 8.3.2 Dimensional and Design Requirements.

See the Table of Dimensional Regulations. In addition the standards set forth therein, the following shall apply:

1. Gross floor areas in the SC Districts shall be as follows:

TYPE OF SHOPPING CENTER	MAXIMUM GROSS FLOOR AREA
Neighborhood (4 to 10 acre lot size)	75,000 sq. ft.
Community (10 to 30 acre lot size)	300,000 sq. ft.
Regional (30 or more acre lot size)	None

2. Setbacks may be reduced upon the issuance of a special permit by the Planning Board for neighborhood and community, but not regional shopping facilities, if the applicant satisfies the following criteria:
  - a. Additional landscaping is provided;
  - b. Appropriate screening is provided;
  - c. Site abuts nonresidential property.
3. Parking: One (1) space per 250 feet.
4. Land coverage shall not exceed fifty (50%) percent. The Planning Board may reduce this requirement upon the issuance of a special permit if the applicant satisfies the following criteria:
  - a. Additional landscaping is provided;
  - b. Appropriate screening is provided;
  - c. Site abuts nonresidential property.
5. Height (maximum) 2 stories / 50 feet.

#### 8.3.3 Uses Available by Special Permit.

The following uses shall be allowed by special permit only in community and regional shopping centers shopping centers, not in neighborhood shopping centers:

1. Motor vehicle light service
2. Indoor theater shall be allowed by special permit from the City Council in a neighborhood shopping center and by right in a community and regional shopping center.

#### 8.3.4 Slope.

All slope regulations shall be adhered to as stated herein. However, the Planning Board may place permanent restrictions on any slopes greater than fifteen (15%) percent or place permanent restrictions on any slope determined necessary by the Holyoke Planning Board due to soil type, vegetation, hydrology aesthetics or other pertinent information.



### **8.3.5 Loading.**

All off-street loading requirements stated herein shall be adhered to. In addition, any overnight storage of supply trucks shall be in an area as far from residential property as possible and the location shall be indicated on the site plan.

### **8.3.6 Building Design.**

The architectural style shall be in harmony with the prevailing character and scale of buildings in the neighborhood through the use of appropriate building materials, screening, breaks in the roof or wall lines and other architectural techniques. Variations in detail, form and sitting shall be used to provide visual interest and avoid monotony. Proposed buildings shall relate harmoniously to each other with adequate light, air, circulation, and separation between buildings.

### **8.3.7 Signs.**

1. Detached signs shall be limited in height by the height of the main structure and in size to 200 square feet. Only one (1) sign shall be allowed per entrance and all signs shall be designed in a manner which is compatible to the design of the building as well as the surrounding neighborhood.
2. All attached signs shall be compatible with each other as well as the overall design of the building.

### **8.3.8 Trip Reduction Plan.**

A trip reduction plan may be required which clearly identifies a combination of transportation system management strategies that are designed to reduce anticipated vehicle trips by thirty-five (35%) percent. These strategies should include but not be limited to:

1. Vanpool/carpool incentive programs, such as employer subsidies for vanpools/carpools, preferred vanpool/carpool parking, ride matching services and providing parking at the vanpool/carpool pick-up site.
2. Allowing and encouraging flexible work weeks.
3. Encouraging pedestrian and bicycle commute modes by providing on-site bicycle parking storage, locker room facilities, bike and walking paths, and similar features.
4. Site designs which are conducive to transit or vanpool use, such as convenient, weather protected transit shelters.
5. Encouraging employee and customer use of public and private transit services through joint planning with abutting developments and regional transportation agencies.
6. Provision of on-site services, retail opportunities and housing if allowed in the zone.
7. Naming a full-time or part-time transportation system management coordinator to oversee implementing all strategies identified in the trip reduction plan.

## **8.4 PROFESSIONAL OFFICE OVERLAY DISTRICT (POOD)**

### **8.4.0 Purpose**

The purpose of the Professional Office Overlay District is to:

1. Preserve and enhance the unique architectural and residential character of the Northampton Street streetscape within the District.
2. To permit limited office-type uses within the residential zone, assisting homeowners in maintaining the financial viability of these properties, consistent with (1).
3. To ensure that, by providing for limited commercial uses within the District, that the residential character is retained.

**8.4.1 General.** Upon the issuance of a special permit from the City Council, no more than (1) professional office or studio per parcel of land may be located in an existing structure on said parcel in the Professional Office Overlay District (POOD).

### **8.4.2 Location.**

The POOD is located as shown on the map entitled, "Professional Office Overlay District, City of Holyoke," dated February 19, 2002.

### **8.4.3 Procedures.**

Two (2) sets of a site plan must be submitted with the permit application and one (1) sent to the Planning Board for comments. In addition, if the building is on the historic inventory, an additional site plan must be submitted and will be sent to the Holyoke Historic Commission for comments.

A Site Plan submitted under this section shall be prepared by a registered architect, landscape architect, or engineer and shall include the following:

1. A plan depicting all existing buildings, contours, parking area, driveways, service area, facilities for waste disposal, and landscape features such as fences, walls, planting areas, walks, and lighting. 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.
2. A landscape plan showing the limits of work, existing tree lines, and all proposed landscape features and improvements including planting areas with size and type for each shrub and tree.
3. Details of all proposed signs including size, placement, construction, material, colors, and design of lettering or other symbols.
4. A plan illustrating the internal layout of the proposed professional office including square footage.

The Special Permit application shall define, as part of the application, the type of business, the total number of employees, and the maximum number of employees on site at one time.

A special permit issued pursuant to this section shall expire upon the applicant ceasing to own or occupy the subject premises.

### **8.4.4 Conditions.**

A special permit may be granted if the City Council determines that:

1. There shall be no significant alteration of the existing building's exterior. This shall not include safety or general maintenance measures such as painting, etc.
2. Signs shall be limited to one (1) (deleted "in number") no greater in size than 2 feet by 3 feet, and cannot be illuminated from within. All signage must be designed in a manner compatible to the existing structures as well as the surrounding neighborhood.
3. Adequate parking is provided, not within the front yard setback, and screened from adjacent properties with appropriate landscaping and/or fencing. Adequate parking shall be determined by compliance with Section 6.0 of this Ordinance. Parking in existence within the front yard prior to the date of this Ordinance shall be exempt. Any new paving for parking must be in compliance with Section 6.1.8 Residential Driveways.
4. Of the area of the parcel that is not included in the front yard setback as defined elsewhere in this ordinance, at least thirty percent (30%) shall be vegetated. A waiver may be granted from this section with a positive recommendation

of the Planning Board and in cases where pre-existing circumstances prevent the compliance to this requirement. (ie. corner lots) Requests must be made in writing with the application.

5. The use is allowed only in an existing structure.
6. The business shall comply with the provisions of Section 74-91 et seq. of the City of Holyoke Code of Ordinances regarding private trash pickup, maintaining said private property free from litter and all applicable regulations contained therein.
7. The applicant is the owner and occupier of the premises, or has a valid purchase and sale agreement.

## **8.5 OFFICE PARK DISTRICTS (OP)**

### **8.5.1 Purpose.**

The purpose of the OP (office park) district is to assure the attractive and efficient arrangement of office buildings and the harmonious integration of the office park into the immediate vicinity and the community at large.

### **8.5.2 Uses.**

Uses in OP districts shall be subject to the following provisions in addition to those contained elsewhere in this ordinance:

1. No building, no loading or unloading facility, no trash or waste receptacle, and no sign shall be constructed, erected, or located within 200 feet of any residence district. No parking lot may be located within 150 feet of any residence district, except when located in the rear or side yard areas and completely screened from the view of such district by appropriate planting. In no case shall any parking lot be placed within a hundred (100') feet of any residence district. No fence shall be located within twenty-five (25') feet of any residence district.
2. Within the buffer areas provided for above, except in front yard areas, activity on the site shall be effectively screened from any residence district by plant material. Where practical and appropriate, existing trees and vegetal cover shall be maintained for such screening. Where existing cover does not provide effective screening, suitable plant material should be introduced.
6. Within front yard areas, a minimum of two-thirds (2/3) of the square foot area shall be provided with lawn or otherwise suitably landscaped.
7. The exterior walls of structures within an OP district shall be constructed of brick, stone, concrete, or other similar durable materials so as to have an attractive appearance and maintain architectural integrity.
5. No exterior lighting is allowed except that which is necessary to illuminate driveways, parking areas, and walkways.
8. One (1), non-illuminated sign, not to exceed a hundred (100) square feet in area, may be erected within the buildable area. Said sign may not be located on the roof of any building.

## **8.6 ENTRYWAY BUSINESS DISTRICT (BE)**

### **8.6.1 Purpose.**

The purpose of the Entryway Business District (BE) is to create an attractive, multiple use gateway to the downtown business districts; to permit medium scale and density; and to promote an urban streetscape.

### **8.6.2 Design and Performance Standards.**

1. At least ten (10%) percent of the lot shall consist of open space dedicated to natural or pedestrian use. Buildings, parking lots, access ways, and other uses shall be located so as to leave the remaining open space in as usable and contiguous a form as is feasible.
2. There shall be no outdoor storage of items not available for retail sales.
3. Chain link fences with razor wire or barbed wire are prohibited in the BE.
4. Where a structure is located on a corner, the first and second stories thereof shall not be located closer than ten (10') feet to the intersection of the street pavement lines in order to allow adequate sight distance for motorists.

### **8.6.3 Parking, Loading, and Access Requirements.**

1. Required parking areas shall not be located forward of any building front line on the lot or on an adjacent lot.
2. All required parking areas, except those serving residential premises, shall be dustless, durable, composed of an all weather surface, designed to adequately handle drainage, and designed to prevent dust, erosion, water accumulation, or unsightly conditions. In parking areas with eight (8) or more spaces, individual spaces shall be delineated by painted lines, wheel stops, or other means.
3. To the extent feasible, lots and parking areas shall be served by common private access ways, in order to minimize the number of curb cuts in the BE District. Such common access ways shall be in conformance with the standards of the Department of Public Works. Proposed documentation (in the form of easements, covenants, or contracts) shall be submitted with the site plan demonstrating that proper maintenance, repair, and apportionment of liability for the common access way and any shared parking areas has been agreed upon by all lot owners proposing to use the common access way. Common access ways may serve any number of adjacent parcels deemed appropriate by the Building Commissioner.

### **8.6.4 Screening, Buffers, and Landscaping.**

1. Parking lots, loading areas, refuse storage and disposal areas, and service areas shall be screened from view, to the extent feasible, from all public ways, and from adjacent residentially zoned or occupied properties, by the use of planted buffers of at least five (5') feet in width, fences or walls, location, or combination thereof. Planted areas intended to provide screening shall contain trees or shrubs of a species hardy in Western Massachusetts and appropriate for screening, spaced to minimize visual intrusion.
2. Required front yards, and required plantings in open areas, shall be landscaped by planting of a species hardy in Western Massachusetts and maintained in a sightly condition at all times.

## **8.7 ARTS AND INDUSTRY OVERLAY DISTRICT (AIOD)**

### **8.7.1 Purpose.**

The purpose of this section is to create an overlay district to promote the following purposes: encourage reuse, redevelopment, and revitalization of historic mill structures along the canals in Holyoke's traditional city center, while retaining existing businesses; allow a vibrant mix of uses that will attract residents, visitors, and customers to the city center; provide a physical and functional link between the city center and neighborhoods abutting this district; improve the appearance of the historic mill area; and promote economic development and enhanced property values.

### **8.7.2 Overlay District.**

The Arts and Industry Overlay District (AIOD) is hereby established and shall be construed as an overlay district. Within the AIOD all regulations of the underlying district(s) shall continue to be in full force and effect, except where these regulations specifically supersede such underlying requirements or provide an alternative to such requirements. The AIOD is located as shown on the map entitled, "Arts and Industry Overlay District, City of Holyoke," dated February 19, 2002.

### **8.7.3 Permitted Uses.**

Within the AIOD, the following uses shall be permitted as of right and supersede all regulations herein imposing stricter requirements:

1. Any use allowed as of right in the IG District, as set forth in the Table of Principal Use Regulations;
2. Multifamily dwelling by renovation of an existing building;
3. Dwelling unit(s) on second or higher floor above permissible nonresidential use;
4. Wholesale or warehouse operation incidental to manufacturing on the premises;
5. Live/work space, including, but not limited to: customary home occupations; music or photographic studio; studio for arts, crafts, writing, acting, dancing, or other performing arts; advertising, industrial design, media facility, architecture, interior design, recording studio; theater, film or video production; gallery, auction house, set shop; lighting, engineering, or musical instrument manufacturing; sheet music printing, framing, arts supply, arts restoration.

### **8.7.4 Specially Permitted Uses.**

Within the AIOD, the following uses may be authorized by special permit from the City Council:

1. Any use allowed by special permit in the IG District, as set forth in the Table of Principal Use Regulations.

### **8.7.5 AIOD Site Plan Review.**

Prior to the issuance of a building permit in the AIOD for any use set forth below, an applicant must first be granted AIOD site plan approval by the Planning Board. An application for such AIOD site plan review shall be submitted on forms furnished by the Planning Board in accordance with its regulations. The AIOD site plan review and approval provisions of this section shall apply to the following types of structures and uses:

1. any permitted use set forth in Section 8.7.3 numbers 2, 3 or 5 with more than twenty-five (25) dwelling units; or
2. any permitted use set forth in Section 8.7.3 numbers 2, 3, or 5 with a floor area greater than 50,000 gross square feet.

### **8.7.6 Action by the Planning Board.**

After determining that the site plan is in conformance with the requirements of the AIOD ordinance, the Planning Board may approve, approve with modification, or disapprove the AIOD site plan application or grant leave to withdraw. Approval may be subject to any conditions, modifications and/or restrictions as the Planning Board may deem necessary. Failure to take action within thirty (30) days following the date of the submittal of the application shall be deemed to be a grant of AIOD site plan approval, and the site plan will be approved.

### **8.7.7 Parking Requirement for Dwelling Units.**

Each dwelling unit, including a dwelling unit associated with live/work space, shall be provided with one (1) parking space. No parking spaces shall be required for any other use.

## **8.8 DOWNTOWN RESIDENTIAL DISTRICT (DR)**

### **8.8.1 Purpose.**

The Downtown Residential District (DR) has been established to encourage infill and redevelopment that is in keeping with the existing neighboring buildings and structures; to permit a flexible approach to redevelopment of larger parcels; to promote a mix of residential and smaller-scale commercial uses in the same building or neighborhood; and to increase property values in downtown residential neighborhoods.

### **8.8.2 Permitted Uses.**

In the DR District, those commercial uses marked "Y" in the Table of Principal Uses shall be permitted as of right; provided, however, that such commercial uses shall be allowed only in conformance with the following conditions:

1. Such commercial use shall occupy the first floor only of a building; provided, however, that there shall be at least two (2) dwelling units in the remainder of the building. No such commercial use shall be permitted unless residential uses also exist within the same building.
2. The building shall contain not less than three (3) stories, excluding basements and attics.

### **8.8.3 Special Permit for Nonconforming Structures Abandoned or Not Used for More than Two (2) Years.**

Notwithstanding the provisions of G.L. c. 40A, s. 6, the City Council may grant a special permit authorizing the reconstruction, alteration, or rehabilitation, and occupancy and use of a nonconforming structure that has been abandoned or not used for a period of more than two (2) years. To be eligible for such special permit, the structure must have the following characteristics:

1. masonry construction;
2. architectural or other features deemed appropriate for rehabilitation by the City Council.

### **8.8.4 Dimensional Regulations.**

In the DR District, the maximum setback, maximum lot coverage, maximum number of stories, and minimum area per dwelling unit required shall be the average of these features on the nearest five (5) lots containing structures on the same side of the street on the same block. In circumstances where the block is vacant and averaging is not possible, the requirements shall be the following provided, however, that the Planning Board might vary this requirement by special permit to a greater or lesser number.

Minimum lot size:	6,000 square feet	Minimum frontage:	60 feet
Minimum setback:	10 feet	Maximum height:	90 feet (7 stories)
Maximum density:	60 units/acre		

### **8.8.5 Special Permit for Dimensional Variation.**

In the DR District, the City Council may grant a special permit to reduce otherwise applicable requirements for lot area, frontage, width, density, front/side/rear yard, building height, or lot coverage upon a finding that:

1. Compliance with such requirements would be impracticable, unreasonable, or undesirable because of:
  - a. the area, width, depth or shape of the lot; or
  - b. the lot coverage or height of existing neighboring structures; or
  - c. the characteristics of buildings situated on nearby properties.
2. Such reduction may be accomplished without substantial detriment to the neighborhood; and
3. The proposed structure is consistent with the architectural scale and style of those in the immediate area.
4. The proposed variation is consistent with Holyoke's traditional downtown neighborhood development pattern(s).

## **8.9 SMART GROWTH ZONING OVERLAY DISTRICT (SGZD)**

### **8.9.1 Purpose.**

The purposes of this Section 8.9 are:

1. To establish a Holyoke Smart Growth Zoning Overlay District, to encourage smart growth in accordance with the purposes of G. L. Chapter 40R;
2. To encourage downtown revitalization and economic development;
3. To promote mixed use development, including a variety of housing types and commercial uses;
4. To create an increased variety or mix of attractive housing options in the downtown area, which will encourage residents of all income types to live and work downtown;
5. To promote well-designed projects, which enhance and support the historic character and architectural styles of downtown Holyoke;
6. To promote the re-development and adaptive re-use of existing structures in the Smart Growth District.

### **8.9.2 Definitions.**

For purposes of this Section 8.9, the following definitions shall apply. All capitalized terms shall be defined in accordance with the definitions established under the Enabling Laws or Section 8.9.2, or as set forth in the PAA Regulations. To the extent that there is any conflict between the definitions set forth in Section 8.9.2 or the Plan Approval Authority (PAA) Regulations and the Enabling Laws, the terms of the Enabling Laws shall govern.

Monitoring Agent– the Holyoke Office for Community Development shall be designated to review and implement the Affordability requirements affecting Projects under Section 8.9.7.

Affordable Homeownership Unit - an Affordable Housing unit required to be sold to an Eligible Household.

Affordable Housing - housing that is affordable to and occupied by Eligible Households.

Affordable Housing Restriction - a deed restriction of Affordable Housing meeting statutory requirements in G.L. Chapter 184, Section 31 and the requirements of Section 8.9.7 of this Ordinance.

Affordable Rental Unit - an Affordable Housing unit required to be rented to an Eligible Household.

Applicant – the individual or entity that submits a Project for Plan Approval.

As-of-right - a use allowed under Section 8.9.5 without recourse to a special permit, variance, zoning amendment, or other form of zoning relief. A Project that requires Plan Approval by the PAA pursuant to Sections 8.9.10 through 8.9.13 shall be considered an as-of-right Project.

Department or DHCD - the Massachusetts Department of Housing and Community Development.

Design Standards – means provisions of the attached design standards made applicable to Projects within the SGZD that are subject to the Plan Approval process.

Eligible Household - an individual or household whose annual income is less than 80 percent of the area-wide median income as determined by the United States Department of Housing and Urban Development (HUD), adjusted for household size, with income computed using HUD's rules for attribution of income to assets.

Enabling Laws – M.G.L. Chapter 40R and 760 CMR 59.00.

Mixed-Use Development Project – a Project containing a mix of residential uses and non-residential uses, as allowed in Section 8.9.5, and subject to all applicable provisions of this Section 8.9.

PAA Regulations – the rules and regulations of the Plan Approval Authority adopted pursuant to Section 8.9.10.

Plan Approval - standards and procedures which [certain categories of] Projects in the SGZD must meet pursuant to Sections 8.9.10 through 8.9.13 and the Enabling Laws.

Plan Approval Authority (PAA) – The Holyoke Planning Board shall be the local approval authority authorized under Section 8.9.10 to conduct the Plan Approval process for purposes of reviewing Project applications and issuing Plan Approval decisions within the SGZD.

Project - a Residential Project or Mixed-use Development Project undertaken within the SGZD in accordance with the requirements of this Section 8.9.

Residential Project - a Project that consists solely of residential, parking, and accessory uses, as further defined in Section 8.9.5.

SGZD – the Smart Growth Zoning Overlay District established in accordance with this Section 8.9.

Zoning Ordinance - the Zoning Ordinance of the City of Holyoke.

### **8.9.3 Overlay District.**

1. Establishment. The Holyoke Smart Growth Zoning Overlay District, hereinafter referred to as the “SGZD,” is an overlay district having a land area of approximately 152 acres in size that is superimposed over the underlying zoning districts and is shown on the Zoning Map as set forth on the map entitled “Holyoke Zoning Map, dated June 17, 2008.” This map is hereby made a part of the Zoning Ordinance and is on file in the Office of the City Clerk.
2. Sub-districts. The SGZD contains the following sub-districts:
  - i. Gateway Sub-district (Dwight Street, Linden Street, to Elm Street)
  - ii. Downtown Mixed Use Sub-district (Dwight Street, Elm Street to Main Street)

### **8.9.4 Applicability of SGZD.**

1. Applicability of SGZD. An applicant may seek development of a Project located within the SGZD in accordance with the provisions of the Enabling Laws and this Section 8.9, including a request for Plan Approval by the PAA, if necessary.
2. Underlying Zoning. The SGZD is an overlay district superimposed on all underlying zoning districts. 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 Projects undergoing development pursuant to this Section 8.9. Within the boundaries of the SGZD, a developer may elect either to develop a Project in accordance with the requirements of the Smart Growth Zoning Overlay District, or to develop a project in accordance with requirements of the regulations for use, dimension, and all other provisions of the Zoning Ordinance governing the underlying zoning district(s).
3. Administration, Enforcement, and Appeals. The provisions of this Section 8.9 shall be administered by the Holyoke Office for Community Development, except as otherwise provided herein. Any legal appeal arising out of a Plan Approval or Plan Review decision under Sections 8.9.10 through 8.9.13 shall be governed by the applicable provisions of G. L. Chapter 40R. Any other request for enforcement or appeal arising under this Section 8.9 shall be governed by the applicable provisions of M.G.L. Chapter 40A.

### **8.9.5 Permitted Uses.**

The following uses are permitted as-of-right as noted in the table below for each Sub-district. All projects will be reviewed under either a Plan Approval or Plan Review process as described in section 8.9.10.:



**Table 1. Table of Use Regulations for SGZD Sub districts**

Use Type	Gateway Sub-district	Downtown Mixed Use Sub-district
Single-family Residential Uses, Detached	Permitted by right	No
Single Family Residential Uses, Attached	Permitted by right	Permitted by right
2 and 3 family Residential Uses	Permitted by right	No
Multi-family Residential Uses	Permitted by right	Permitted by right
Assisted Living	Permitted by right	Permitted by right
Mixed use development projects, including neighborhood scale (see Note b) commercial or institutional uses, including convenience and grocery stores, retail stores, service businesses, restaurants, professional offices, parks, recreation and conservation areas	Permitted by right	Permitted by right
Mixed use development projects, including downtown scale (See Note c) commercial or institutional uses, including convenience and grocery stores, retail stores, service businesses, restaurants, professional offices, parks and recreation areas	No	Permitted by right
Mill Renovation for Mixed Use	not applicable	Permitted by right
Parking accessory to any of the above permitted uses, including surface parking and parking garages.	Permitted by right	Permitted by right
Accessory uses customarily incidental to any of the above permitted uses.	Permitted by right	Permitted by right

Notes:

- a. The total gross floor area devoted to Non-residential uses within a Mixed-use Development Project shall not exceed 30% of the total gross floor area of the Project.
- b. Neighborhood scale shall mean buildings with a maximum height of 60 feet.
- c. Downtown scale shall mean a maximum height of 120 feet.
- d. The minimum allowable as-of-right density requirements for residential uses specified in Section 8.9.8 shall apply to the residential portion of any Mixed-use Development Project.

**8.9.6 Prohibited Uses.**

All uses not expressly allowed are prohibited.

**8.9.7 Housing and Housing Affordability.**

1. Number of Affordable Housing Units. For all Projects containing more than 12 residential units, not less than twenty percent (20%) of housing units constructed shall be Affordable Housing. The Holyoke Planning Department may approve individual projects of less than 13 units within the Smart Growth Zoning Overlay District which have less than 20% affordable housing units, provided that the total number of affordable housing units in the district shall not be less than 20% of total number of approved housing units in the district. For purposes of calculating the number of units of Affordable Housing required within a Project, any fractional unit of 0.5 or greater shall be deemed to constitute a whole unit. A Project shall not be segmented to evade the Affordability threshold set forth above.
2. Monitoring Agent. The Holyoke Office of Community Development shall be designated as the Monitoring Agent for this ordinance. In a case where the Monitoring Agent cannot adequately carry out its administrative duties, upon certification of this fact by the Mayor or by DHCD, such duties shall devolve to and thereafter be administered by a qualified housing entity designated by the Mayor or, in the absence of such timely designation, by an entity designated by the DHCD. In any event, such Monitoring Agent shall ensure the following, both prior to issuance of a Building Permit for a Project within the SGZD, and on a continuing basis thereafter, as the case may be:
  - a. prices of Affordable Homeownership Units are properly computed; rental amounts of Affordable Rental Units are properly computed;
  - b. income eligibility of households applying for Affordable Housing is properly and reliably determined;
  - c. the housing marketing and resident selection plan conform to all requirements and are properly administered;

- d. sales and rentals are made to Eligible Households chosen in accordance with the housing marketing and resident selection plan with appropriate unit size for each household being properly determined and proper preference being given; and
  - e. Affordable Housing Restrictions meeting the requirements of this section are recorded with the proper registry of deeds.
3. Cost and Eligibility Requirements. Affordable Housing shall comply with the following requirements:
    - a. Affordable Housing required to be offered for rent or sale shall be rented or sold to and occupied only by Eligible Households.
    - b. For an Affordable Rental Unit, the monthly rent payment, including utilities and parking, shall not exceed 30 percent of the maximum monthly income permissible for an Eligible Household, assuming a family size equal to the number of bedrooms in the unit plus one, unless other affordable program rent limits approved by the DHCD shall apply.
    - c. For an Affordable Homeownership Unit the monthly housing payment, including mortgage principal and interest, private mortgage insurance, property taxes, condominium and/or homeowner's association fees, insurance, and parking, shall not exceed 30 percent of the maximum monthly income permissible for an Eligible Household, assuming a family size equal to the number of bedrooms in the unit plus one.
  4. Prior to the granting of any Building Permit or Plan Approval for a Project, the Applicant must demonstrate, to the satisfaction of the Monitoring Agent, that the method by which such affordable rents or affordable purchase prices are computed shall be consistent with state or federal guidelines for affordability applicable to Holyoke.
  5. Design and Construction. Units of Affordable Housing shall be finished housing units. Units of Affordable Housing shall be dispersed throughout the Project of which they are part and be comparable in initial construction quality and exterior design to the other housing units in the Project. The total number of bedrooms in the Affordable Housing shall, insofar as practicable, be proportionate to the total number of bedrooms in all units in the Project of which the Affordable Housing is part.
  6. Affordable Housing Restriction. Each Project shall be subject to an Affordable Housing Restriction which is recorded with the appropriate registry of deeds or district registry of the Land Court and which contains the following:
    - a. specification of the term of the affordable housing restriction which shall be no less than thirty years;
    - b. the name and address of the Monitoring Agent with a designation of its power to monitor and enforce the affordable housing restriction;
    - c. a description of the Affordable Homeownership Unit, if any, by address and number of bedrooms; and a description of the overall quantity and number of bedrooms and number of bedroom types of Affordable Rental Units in a Project or portion of a Project which are rental. Such restriction shall apply individually to the specifically identified Affordable Homeownership Unit and shall apply to a percentage of rental units of a rental Project or the rental portion of a Project without specific unit identification.
    - d. reference to a housing marketing and resident selection plan, to which the Affordable Housing is subject, and which includes an affirmative fair housing marketing program, including public notice and a fair resident selection process. The housing marketing and selection plan may provide for preferences in resident selection to the extent consistent with applicable law; the plan shall designate the household size appropriate for a unit with respect to bedroom size and provide that the preference for such Unit shall be given to a household of the appropriate size;
    - e. a requirement that buyers or tenants will be selected at the initial sale or initial rental and upon all subsequent sales and rentals from a list of Eligible Households compiled in accordance with the housing marketing and selection plan;
    - f. reference to the formula pursuant to which rent of a rental unit or the maximum resale price of a homeownership will be set;
    - g. a requirement that only an Eligible Household may reside in Affordable Housing and that notice of any lease of any Affordable Rental Unit shall be given to the Monitoring Agent

- h. provision for effective monitoring and enforcement of the terms and provisions of the affordable housing restriction by the Monitoring Agent;
  - i. provision that the restriction on an Affordable Homeownership Unit shall run in favor of the Monitoring Agent and/or the municipality, in a form approved by municipal counsel, and shall limit initial sale and re-sale to and occupancy by an Eligible Household;
  - j. provision that the restriction on Affordable Rental Units in a rental Project or rental portion of a Project shall run with the rental Project or rental portion of a Project and shall run in favor of the Monitoring Agent and/or the municipality, in a form approved by municipal counsel, and shall limit rental and occupancy to an Eligible Household;
  - k. provision that the owner[s] or manager[s] of Affordable Rental Unit[s] shall file an annual report to the Monitoring Agent, in a form specified by that agent certifying compliance with the Affordability provisions of this Ordinance and containing such other information as may be reasonably requested in order to ensure affordability; and
  - l. a requirement that residents in Affordable Housing provide such information as the Monitoring Agent may reasonably request in order to ensure affordability.
7. Costs of Housing Marketing and Selection Plan. The housing marketing and selection plan may make provision for payment by the Project applicant of reasonable costs to the Monitoring Agent to develop, advertise, and maintain the list of Eligible Households and to monitor and enforce compliance with affordability requirements.
8. Age Restrictions. Nothing in this Section 8.9 shall permit the imposition of restrictions on age upon all Projects throughout the entire SGZD. However, the PAA or Holyoke Planning Department may, in its review of a submission under Section 8.9.11 allow a specific Project within the SGZD designated exclusively for the elderly, persons with disabilities, or for assisted living, provided that any such Project shall be in compliance with all applicable fair housing laws and not less than twenty-five percent (25%) of the housing units in such a restricted Project shall be restricted as Affordable units. Any Project which includes age-restricted residential units shall comply with applicable federal, state and local fair housing laws and regulations.
9. No Waiver. Notwithstanding anything to the contrary herein, the Affordability provisions in this Section 8.9.7 shall not be waived.

**8.9.8 Dimensional and Density Requirements**

- 1. Table of Density Requirements. The minimum residential densities listed in the table below must be met in the SGZD.

**Table 2. Density Requirements in the SGZD District**

Use	Minimum Allowed Residential Density (du/ac.)
Dwelling Units, Single Family Detached	8
Dwelling Units, Single Family Attached	8
Dwelling Units, Duplex	12
Dwelling Units, Three-Family Detached	12
Dwelling Units, Multi-Family	20
Assisted Living	20
Mill Renovation for Mixed Use	20
Mixed Use Development	20

**Notes:**

- a. For Mixed Use Developments, minimum density requirements are only applicable to the Residential Component of projects.
- b. Table of Setback and Height Requirements. Notwithstanding anything to the contrary in this Zoning Ordinance, the dimensional requirements applicable in the SGZD shall be the dimensional requirements applicable to the DR District in the Holyoke Zoning Ordinance, or the following standards, whichever is less restrictive:

**Table 3. Setback and Height Requirements in the SGZD District**

	<b>Min. front setback (ft.)</b>	<b>Min. combined side (ft.)</b>	<b>Min. rear (ft.)</b>	<b>Max. height (ft.)</b>	<b>Frontage</b>
<b>GATEWAY DISTRICT</b>					
Single, two and three family residential uses	10	10	10	35	Width of existing or proposed building on lot (provided that at no point can the lot have less than 25ft of frontage)
Multifamily residential uses	0	10	0	60	
Mixed uses and mill renovation	0	10	0	60*	
<b>DOWNTOWN MIXED USE DISTRICT</b>					
Single, two and three family Residential uses	0	0	0	35	Width of existing or proposed building on lot (provided that at no point can the lot have less than 25ft of frontage)
Multifamily residential uses	0	0	0	60	
Mixed uses and mill renovation	0	0	0	120*	

\*Note: For mill renovation projects, heights do not have to comply with the maximum heights included here and are only restricted to the height of the existing mill building.

3. Dimensional Waivers. The PAA may, in order to encourage the development of infill housing units, grant a waiver to the dimensional standards of Section 8.9.8 (2), in accordance with Section 8.9.12 (3).

**8.9.9 Parking Requirements.**

The parking requirements applicable for Projects within the SGZD are as follows.

1. Number of parking spaces. Unless otherwise approved by the PAA or Holyoke Planning Department, the minimum number of off-street parking spaces required for residential uses shall be one parking space per residential unit, provided by use, either in surface parking, within garages or other structures,. The number of commercial parking spaces required shall be based upon the parking requirements of the underlying zoning district in the Holyoke Zoning Ordinance.

The PAA or Holyoke Planning Department may allow for a decrease in the required parking as provided in Sections 8.8.9 (2) and 8.9.9 (3) below.

2. Shared Parking. Notwithstanding anything to the contrary herein, the use of shared parking to fulfill parking demands noted above that occur at different times of day is strongly encouraged. Minimum parking requirements above may be reduced by the PAA through the Plan Approval process (or, for Projects requiring Plan Review by the Holyoke Planning Department prior to submission of any application for a Building Permit), if the applicant can demonstrate that shared spaces will meet parking demands by using accepted methodologies (e.g. the Urban Land Institute Shared Parking Report, ITE Shared Parking Guidelines, or other approved studies).
3. Reduction in parking requirements. Notwithstanding anything to the contrary herein, any minimum required amount of parking may be reduced by the PAA through the Plan Approval process (or, for Projects requiring Plan Review by the Holyoke Planning Department, prior to submission of any application for a Building Permit), if the applicant can demonstrate that the lesser amount of parking will not cause excessive congestion, endanger public safety, or that lesser amount of parking will provide positive environmental or other benefits, taking into consideration:
  - a. the availability of surplus off street parking in the vicinity of the use being served and/or the proximity of a bus stop or transit station;

- b. the availability of public or commercial parking facilities in the vicinity of the use being served;
  - c. shared use of off street parking spaces serving other uses having peak user demands at different times;
  - d. age or other occupancy restrictions which are likely to result in a lower level of auto usage;
  - e. impact of the parking requirement on the physical environment of the affected lot or the adjacent lots including reduction in green space, destruction of significant existing trees and other vegetation, destruction of existing dwelling units, or loss of pedestrian amenities along public ways; and
  - f. such other factors as may be considered by the PAA or the Holyoke Planning Department.
4. Location of Parking. Any surface parking lot shall, to the maximum extent feasible, be located at the rear or side of a building, relative to any principal street, public open space, or pedestrian way.

**8.9.10 Plan Approval and Plan Review of Projects: General Provisions.**

1. Plan Approval. An Application for Plan Approval or Plan Review shall be reviewed for consistency with the purpose and intent of Sections 8.9.10 through 8.9.13. Such Plan Approval or Plan Review process shall be construed as an as-of-right review and approval process as required by and in accordance with the Enabling Laws.

The following categories of Projects shall be subject to a Plan Review process:

- a. Any Residential Project containing less than thirteen [13] residential units; and
- b. Mixed use or commercial projects which are 5000 square feet or less.

The following types of Projects shall be subject to a Plan Approval process:

- a. Any Residential Project containing at least thirteen [13] residential units; and
  - b. Mixed use or commercial projects in excess of 5000 square feet;
2. Plan Approval Authority (PAA). The Holyoke Planning Board, consistent with G.L. Chapter 40R and 760 CMR 59.00, shall be the Plan Approval Authority (the “PAA”), and it is authorized to conduct the full Plan Approval process for purposes of reviewing Project applications and issuing Plan Approval decisions within the SGZD. Projects subject to Plan Review shall be reviewed by Holyoke Planning Department staff.
3. PAA Regulations. The Plan Approval Authority may adopt administrative rules and regulations relative to Plan Approval. Such rules and regulations must be approved by the Department of Housing and Community Development

**8.9.11 Plan Approval and Plan Review Procedures.**

1. Pre-application and Required Submittals for Plan Review. For projects subject to Plan Review, a “Concept Plan” shall be submitted to the Holyoke Planning Department. Prior to the submittal of an application for projects that require Plan Approval, a “Concept Plan” *must* be submitted to help guide the development of the definitive submission for Project build-out and individual elements thereof. Such Concept Plan should reflect the following:
- a. Overall building envelope areas;
  - b. Open space and natural resource areas
  - c. Parking areas, or measures being used to provide parking; and
  - d. General site improvements, groupings of buildings, and proposed land uses.

The Concept Plan is intended to be used as a tool for the applicant, Planning Department and the PAA to ensure that the proposed Project design will be consistent with the Design Standards and other requirements of the SGZD.

2. Required Submittals for Plan Approval. An application for Plan Approval shall be submitted to the PAA on the form described in Section 10.1.5 Site Plan Review Contents in effect on February 19, 2002, and in compliance with Section 10.1.6 Narratives in effect on February 19, 2002.

As part of any application for Plan Approval for a Project within the SGZD submitted under Sections 8.9.10 through 8.9.13 (or, for Projects requiring Plan Review, prior to submission of any application for a Building Permit), the Applicant must submit the following documents to the PAA (or the Holyoke Planning Department for Projects requiring Plan Review) and the Monitoring Agent:

- a. evidence that the Project complies with the cost and eligibility requirements of Section 8.9.7 (3)
- b. Project plans that demonstrate compliance with Section 8.9.7 (5), and
- c. a form of Affordable Housing Restriction that satisfies the requirements of Section 8.9.7 (6).

All site plans shall be prepared by a certified architect, landscape architect, and/or a civil engineer registered in the Commonwealth of Massachusetts. All landscape plans shall be prepared by a certified landscape architect registered in the Commonwealth of Massachusetts. All building elevations shall be prepared by a certified architect registered in the Commonwealth of Massachusetts. All plans shall be signed and stamped, and drawings prepared at a scale of [one inch equals forty feet (1"=40') or larger], or at a scale as approved in advance by the PAA (or by the Holyoke Planning Department for Projects requiring Plan Review).

3. Filing. An applicant for Plan Approval shall file an application form and the other required submittals as set forth in the PAA Regulations with the City Clerk and a copy of the application including the date of filing certified by the City Clerk shall be filed forthwith with the PAA.
4. Circulation to Other Boards. Upon receipt of the Application, the PAA shall provide a copy of the application materials to the Office for Community Development, Board of Health, Conservation Commission, Building Department, Department of Public Works, Fire Department, and the Engineering Department and other municipal officers, agencies or boards for comment, and any such board, agency or officer shall provide any written comments within 14 days of its receipt of a copy of the plan and application for approval.
5. Hearing. The PAA shall hold a public hearing for which notice has been given as provided in Section 11 of G.L. Chapter 40A. The decision of the PAA shall be made, and a written notice of the decision filed with the City Clerk, within 120 days of the receipt of the application by the City Clerk. The required time limits for such action may be extended by written agreement between the applicant and the PAA, with a copy of such agreement being filed in the office of the City Clerk. Failure of the PAA to take action within said 120 days or extended time, if applicable, shall be deemed to be an approval of the Plan Approval application.
6. Peer Review. The applicant shall be required to pay for reasonable consulting fees to provide peer review of the Plan Approval application, pursuant to G.L. Chapter 40R, Section 11(a). Such fees shall be held by the City in a separate account and used only for expenses associated with the review of the application by outside consultants, including, but not limited to, attorneys, engineers, urban designers, housing consultants, planners, and others. Any surplus remaining after the completion of such review, including any interest accrued shall be returned to the applicant forthwith.

#### **8.9.12 Plan Approval Decisions**

1. Plan Approval. Plan Approval shall be granted where the PAA finds that:
  - a. the applicant has submitted the required fees and information as set forth in the PAA Regulations; and
  - b. the Project as described in the application meets all of the requirements and standards set forth in this Section 8.9 and the PAA Regulations, or a waiver has been granted therefrom;
  - c. the Project as described in the application conforms the attached Design Standards; and,
  - d. any extraordinary adverse potential impacts of the Project on nearby properties have been adequately mitigated.

For a Project subject to the Affordability requirements of Section 8.9.7, compliance with condition (b) above shall include written confirmation by the Monitoring Agent that all requirements of that Section have been satisfied. The PAA may attach conditions to the Plan Approval decision that are necessary to ensure substantial compliance with this Section 8.9, or to mitigate any extraordinary adverse potential impacts of the Project on nearby properties.

2. Plan Disapproval. A Plan Approval application may be disapproved only where the PAA finds that:
  - a. the applicant has not submitted the required fees and information as set forth in the Regulations; or
  - b. the Project as described in the application does not meet all of the requirements and standards set forth in this Section 8.9 and the PAA Regulations, or that a requested waiver therefrom has not been granted;

- c. the Project as described in the application does not conform to the attached Design Standards, or;
  - d. it is not possible to adequately mitigate significant adverse project impacts on nearby properties by means of suitable conditions.
3. **Waivers.** Upon the request of the Applicant, the Plan Approval Authority may waive dimensional and other requirements of Section 8.9, including the Design Standards, in the interests of design flexibility and overall project quality, and upon a finding of consistency of such variation with the overall purpose and objectives of the SGZD, or if it finds that such waiver will allow the Project to achieve the density, Affordability, mix of uses, and/or physical character allowable under this Section 8.9.
  4. **Project Phasing.** The PAA, as a condition of any Plan Approval, may allow a Project to be phased at the request of the Applicant, or it may require a Project to be phased to mitigate any extraordinary adverse Project impacts on nearby properties. For Projects that are approved and developed in phases, the proportion of Affordable to market rate units shall be consistent across all phases, and the proportion of Existing Zoned Units to Bonus Units (as those terms are defined under 760 CMR 59.00) shall be consistent across all phases.
  5. **Form of Decision.** The PAA shall issue to the applicant a copy of its decision containing the name and address of the owner, identifying the land affected, and the plans that were the subject of the decision, and certifying that a copy of the decision has been filed with the City Clerk and that all plans referred to in the decision are on file with the PAA. If twenty (20) days have elapsed after the decision has been filed in the office of the City Clerk without an appeal having been filed or if such appeal, having been filed, is dismissed or denied, the City Clerk shall so certify on a copy of the decision. If a plan is approved by reason of the failure of the PAA to timely act, the City Clerk shall make such certification on a copy of the application. A copy of the decision or application bearing such certification shall be recorded in the registry of deeds for the county and district in which the land is located and indexed in the grantor index under the name of the owner of record or recorded and noted on the owner's certificate of title. The fee for recording or registering shall be paid by the applicant.
  6. **Validity of Decision.** A Plan Approval shall remain valid and shall run with the land indefinitely, provided that construction has commenced within two years after the decision is issued, which time shall be extended by the time required to adjudicate any appeal from such approval and which time shall also be extended if the Project proponent is actively pursuing other required permits for the Project or there is other good cause for the failure to commence construction, or as may be provided in a Plan Approval for a multi-phase Project.

#### **8.9.13 Change in Plans after Approval by PAA.**

1. **Minor Change.** After Plan Approval, an applicant may apply to make minor changes in a Project involving minor utility or building orientation adjustments, or minor adjustments to parking or other site details that do not affect the overall buildout or building envelope of the site, or provision of open space, number of housing units, or housing need or affordability features. Such minor changes must be submitted to the PAA on redlined prints of the approved plan, reflecting the proposed change, and on application forms provided by the PAA. The PAA may authorize such changes at any regularly scheduled meeting, without the need to hold a public hearing. The PAA shall set forth any decision to approve or deny such minor change by motion and written decision, and file with the City Clerk, a copy of which shall be sent to the applicant.
2. **Major Change.** Those changes deemed by the PAA to constitute a major change in a Project because of the nature of the change in relation to the prior approved plan, or because such change cannot be appropriately characterized as a minor change as described above, shall be processed by the PAA as a new application for Plan Approval pursuant to Sections 8.9.10 through 8.9.13.

#### **8.9.14 Severability.**

If any provision of this Section 8.9 is found to be invalid by a court of competent jurisdiction, the remainder of Section 8.9 shall not be affected but shall remain in full force. The invalidity of any provision of this Section 8.9 shall not affect the validity of the remainder of the City's Zoning Ordinance.

## 8.10 LOW DENSITY MULTIFAMILY DISTRICT (RM-LD)

### 8.10.1 Purpose.

The purpose of the RM-LD is to allow a multifamily zoning district for low density developments on parcels of more than 1 acre that:

- Promote choice and opportunity in the living units within the City
- Further add to a variety of housing types within the City
- Preserve unique natural or historical features by incorporating said features into the project design
- Minimize obstruction of scenic views from publicly accessible locations
- Is integrated into the existing terrain and surrounding landscape
- Is designed to protect abutting properties and community amenities
- Is designed to fit into the surrounding neighborhood

### 8.10.2. Dimensional Regulations

All multifamily dwellings shall conform to the dimensional requirements specified in Table 5.2.

<i>Front yard Setback</i>	<i>Side Yard Setback</i>	<i>Rear yard Setback</i>	<i>Min frontage</i>	<i>Min lot size</i>	<i>Min LA/DU</i>
20	15	25	80	1 acre	7,000
<i>Max Ht</i>	<i>Max stories</i>	<i>Building coverage</i>	<i>Maximum Density</i>		
35ft	2 ½	25%	6 units/acre		

\*Developments within the Aquifer Protection District will be required to contain 45% Open Space.

At least 50% of the remaining area of the lot shall be open space.

### 8.10.3 Design Standards

In order to achieve a development that reflects the residential character of the neighborhood in which it is located, the following minimum building and design standards shall be applied to all structures constructed in a RM-LD development. When reviewing site plans, the Planning Board must consider the following general review criteria in addition to the more specific requirements that are listed elsewhere in this ordinance.

1. Attention shall be given by the Planning Board as to whether the proposed site design, development layout, number, type and design of housing constitutes a suitable development for the neighborhood within which it is to be located.
2. Dwelling units should be constructed in appropriate clusters, which are harmonious with neighborhood development and will not detract from the ecological and visual qualities of the environment.
3. The front façade of all structures shall be oriented toward the access road serving the premises and not toward any parking lot or abutting property.
4. There shall be no more than 4 dwelling units per structure.
5. All structures shall, principal and accessory, have a varied roofline, articulated footprint and should have varied facades.
6. Accessory structures shall comply with all setback requirements and shall be designed with architectural detailing of similar nature to the principal buildings located thereon.
7. No structure shall be greater than ten thousand (10,000) square feet in gross floor area. [For purposes of this section, gross floor area shall include attached garages.]
8. The construction of individual garages attached to or within housing units is encouraged where feasible, taking into consideration the topography, layout, type, architectural design and price of unit. Garages, if provided, shall be made an integral part of the principal structure.
9. A minimum of twenty-five feet (25') of separation between buildings shall be provided which shall be landscaped.
10. For principal structures that abut an access road along the front and rear yard there shall be provided an adequate landscape buffer, a minimum of six feet in height and five feet in width, along the rear yard abutting the access road. If existing vegetation is adequate for screening, it will be preferred to maintain the natural buffer.



11. Access roads, pedestrian/biking facilities and all infrastructure and utilities shall be designed and constructed in accordance with the Holyoke Subdivision Rules and Regulations to the extent possible.
12. All lighting fixtures shall be integrated into the architectural style of the development. All exterior structural and sight lighting (not including access road lighting) shall be retained on site and shall not create a nuisance to abutting properties and streets. All exterior light sources shall be appropriately shielded from off-premise viewing. Access road lighting shall be designed to prevent nuisance to abutting properties by reason of light and glare.
13. One sign, no greater than forty (40) square feet in size and six (6) feet in height, shall be allowed at each intersection of the project's access road with the abutting public way. Signage may be illuminated with projected lighting, but shall not be backlit or internally lit.

#### **8.10.4 Parking Standards**

All RM-LD developments shall provide for adequate off-street parking which will protect the health, safety and welfare of the residents and guests.

1. A minimum of 2 ½ off-street parking spaces shall be provided per unit. In cases where an odd number of units are proposed, spaces shall be rounded up to the nearest whole space.
2. No parking spaces or parking lots shall be located within the required front yard setback of the principal structure. Driveways shall be constructed in compliance with Section 6.1.8.
3. All parking lots shall be screened from abutting access roads, properties and streets through the use of landscaped berms and evergreen shrubs and trees. The buffer shall be a minimum of four (4) feet in height and five (5) feet in width.

#### **8.10.5 Planning Board Findings**

In making its decision the Planning Board must make findings on the following mandatory standards requiring that the proposed use, buildings and structures for a Low Density Multifamily Residential District development will:

1. Be compatible with adjacent land uses and with the character of the neighborhood in which it is located.
2. Provide safe and convenient access to the site from existing or proposed roads, and to proposed structures thereon, with particular reference to pedestrian and vehicular safety, traffic flow and control, and access in case of fire or emergency.
3. Provide for adequate capacity for public services, facilities, and utilities to service the proposed development such as water pressure and sewer capacity.
4. Provide for visual and noise buffering of the development to minimize impact to abutting properties.
5. Create no nuisance to abutting properties by reason of light, noise, dust, vibration or stormwater runoff.
6. Provide for long-term maintenance of the stormwater management system.

## **SECTION 9.0 ADMINISTRATION, ENFORCEMENT, AND PROCEDURES**

### **9.1 ENFORCEMENT.**

#### **9.1.1 General.**

The Building Commissioner shall be the officer responsible for interpreting and enforcing the provisions of this ordinance, and may delegate his powers and duties to assistants as necessary. The Police Department and the City Solicitor shall assist the Building Commissioner in such enforcement where necessary and appropriate.

#### **9.1.2 Violation.**

The Building Commissioner shall refuse to grant a permit for the erection, reconstruction, alteration, enlargement or moving of any structure which would result in a violation of any provision of this ordinance, or in violation of the terms of any special permit or variance duly granted. State and municipal officers shall refuse to grant any permit or license, which would result in a violation of any provision of this ordinance. Any applicant for a permit or license shall submit sufficient documentation, including plans and specifications, to satisfy the granting authority that all the conditions of this ordinance have been or will be met.

#### **9.1.3 Conformance to Subsequent Amendments.**

If a permit or special permit is issued by the City Council for a use or for construction under this ordinance, then such use or construction shall conform to any subsequent amendment to this ordinance unless such use or construction is commenced within a period of six (6) months after the issuance of the permit and in the cases involving construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable.

#### **9.1.4 Stop Order.**

The Building Commissioner shall issue a stop order on any work in progress which would result in a violation of any provision of this ordinance. If, after an inspection, the Building Commissioner finds that the use of any premises is in violation of any provision of this ordinance, and that such premises does not constitute a nonconforming use as defined herein, he shall issue to the owner an order to cease such violation immediately. No land or structure shall be used or occupied, changed in use or reoccupied which would result in a violation of any provision of this ordinance.

#### **9.1.5 Penalty.**

Any person or group of persons violating any of the provisions of this ordinance shall be fined not more than \$300.00 for each offense. Each day that violation continues shall constitute a separate offense.

### **9.2 BOARD OF APPEALS.**

#### **9.2.1 Powers.**

The Board of Appeals shall have and exercise all the powers granted to it by Chapters 40A, 40B, and 41 of the General Laws of the Commonwealth and by this ordinance. The Board's powers are as follows:

1. To hear and decide appeals or petitions for variances from the terms of this ordinance, with respect to particular land or structures, as set forth in G.L. c. 40A, s. 10. Use variances shall not be allowed in any district.
2. To hear and decide appeals taken by any person aggrieved by reason of his inability to obtain a permit or enforcement action from any administrative officer under the provisions of G.L. c. 40A, ss. 7, 8 and 15.
3. To hear and decide comprehensive permits for construction of low or moderate income housing by a public agency or limited dividend or nonprofit corporation, as set forth in G.L. c. 40B, ss. 20-23.

#### **9.2.2 Conditions.**

Variances may be granted with such reasonable conditions, safeguards, or limitations on time or use, including performance guarantees, as the special permit granting authority may deem necessary to serve the purposes of this ordinance.

#### **9.2.3 Regulations.**

The Board of Appeals may adopt rules and regulations for the administration of its powers.

#### **9.2.4 Fees.**

The Board of Appeals may adopt reasonable administrative fees and technical review fees for petitions for variances, administrative appeals, and applications for comprehensive permits.

## **9.3 SPECIAL PERMITS.**

### **9.3.1 Special Permit Granting Authority.**

Unless specifically designated otherwise, the City Council shall act as the special permit granting authority.

### **9.3.2 Criteria.**

Special permits shall be granted by the special permit granting authority, unless otherwise specified herein, only upon its written determination that the benefit to the city and the neighborhood outweigh the adverse effects of the proposed use, taking into account the characteristics of the site and of the proposal in relation to that site. In addition to any specific factors that may be set forth in this ordinance, the determination shall include consideration of each of the following:

1. Social, economic, or community needs which are served by the proposal;
2. Traffic flow and safety, including parking and loading;
3. Adequacy of utilities and other public services;
4. Neighborhood character and social structures;
5. Impacts on the natural environment; and
6. Potential fiscal impact, including impact on city services, tax base, and employment.

### **9.3.3 Conditions.**

Special permits may be granted with such reasonable conditions, safeguards, or limitations on time or use, including performance guarantees, as the special permit granting authority may deem necessary to serve the purposes of this ordinance.

### **9.3.4 Lapse.**

Special permits shall lapse if a substantial use thereof or construction thereunder has not begun, except for good cause, within twenty-four (24) months following the filing of the special permit approval (plus such time required to pursue or await the determination of an appeal referred to in G.L. c. 40A, s. 17, from the grant thereof) with the City Clerk.

### **9.3.5 Regulations.**

The special permit granting authority may adopt rules and regulations for the administration of this section.

### **9.3.6 Fees.**

The special permit granting authority may adopt reasonable administrative fees and technical review fees for applications for special permits. The fee for a special permit before the city council shall be \$100.00 unless a greater amount is required elsewhere in the ordinance. The city council, planning board, board of appeals, and Pioneer Valley Planning Commission shall be exempt from such fees. The cost of publication shall be borne by the applicant. If the applicant fails to properly and timely advertise the application will be denied without prejudice and the applicant must re-file the application. An additional filing fee will be required unless waived by a two thirds vote of the City Council.

## **10.0 SITE PLAN REVIEW.**

### **10.0 MAJOR SITE PLAN REVIEW.**

#### **10.1.1 Purpose.**

The purpose of site plan review is to protect the health, safety, convenience and general welfare of the city by providing a mechanism to review plans for proposed structures and to ensure that development is designed or expanded in a manner that reasonably protects visual and environmental qualities of the site and its immediate surroundings.

#### **10.1.2 Applicability.**

Prior to the issuance of a building permit in any zoning district, an applicant must first be granted site plan approval by the Planning Board, unless otherwise provided herein. The site plan review and approval provisions of this section shall apply to the following types of structures and uses:

1. Any new structure, or group of new structures under the same ownership, with at least 5,000 square feet of gross floor area, 10,000 square feet of impervious surface, or requiring the provision of seventeen (17) or more parking spaces.
2. Any addition which results in an additional impervious surface area of greater than 5,000 square feet, or an additional 5,000 square feet of gross floor area, or requires the addition of seventeen (17) or more parking spaces.
3. Any new structure or group of new structures or additions which result in an increase of 700 vehicle trips per day as calculated by the Institute of Transportation Engineers (ITE) trip generation manual or any other acceptable formula.
4. Changes in use of any building that will introduce significant quantifiable alterations as reasonably determined by the Planning Board regarding on and off site traffic, and curb cuts, site design or other site features.
5. Multifamily residential developments involving four (4) or more units.
6. Multifamily Flexible Developments projects as regulated under Section 7.5.

The calculation of increase in square feet shall be based on the aggregate of all new structures and/or additions calculated from the date of enactment of this section.

#### **10.1.3 Waiver.**

The Planning Board may vote to waive any or all requirements of Major Site Plan Review in the cases of change of use and other instances where approved by the Board. .

#### **10.1.4 Application.**

1. Pre-application meeting. An applicant for major site plan approval must attend a pre-application meeting. The applicant shall provide adequate information to describe the nature, scope and site of the proposed development and any anticipated waiver(s) to be requested by the applicant at the meeting. The pre-application meeting shall be conducted by the Permitting Group.
2. Waivers. Waivers of site plan submittal requirements shall only be granted if the applicant requests such in writing at the time of application submittal. It is the responsibility of the applicant to demonstrate that the health, safety, and welfare of the public will not be harmed by the waiver of any submittal requirements. The Planning Board, by majority vote, may grant a waiver(s) of any of the items listed below under "required site plan contents" and shall state their reasons for granting the request. If the Planning Board subsequently desires to revoke a waiver, the Board shall do so only on the unanimous vote of the Board of those members present.
3. Submittal requirements to the Planning Board. The following information shall be submitted to the Planning Board:

- a. Two (2) original application forms and a designer's certificate.
- b. Ten (10) full sets of the site plans no larger than 24" x 36", and seven (7) copies of reduced size plans, preferably 11"X17".
- c. A digital (pdf) file of the site plan and other required submittal materials.
- d. List of property owners and their addresses for all parcels of land within 300 feet of the subject parcel, to be obtained from the most recent property list from the Holyoke Assessors Office.
- e. Stamped A10 sized envelopes twice the quantity of the number of abutters established in (d) above. Envelopes will be used to mail hearing notices and the decision to all abutters.
- f. Required fee.
- g. The Planning Board will require the applicant to submit as-built drawings and plans in computer formats. Contact the Planning Board for required format.
- h. A Revision List is required for all revisions to plans.
- i. The cost of publication shall be borne by the applicant.

### 10.1.5 Contents.

A Major Site Plan submitted under this section shall be prepared by a registered architect, landscape architect, engineer. In all districts, the site plan shall include the following components and information:

1. **Locus Plan.** A locus plan showing the entire proposed development and its relation to existing areas, buildings and roads for a distance of one-fourth (1/4) mile from the boundaries of the proposed development or such other distance as may be approved or required by the Planning Board. 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.
2. **Perspective, Isometric, or Cross-section Drawing(s).** A digital/graphic representation showing the entire proposed development and its relation to existing adjacent areas, buildings and roads for a distance of a hundred (100') feet from the boundaries of the proposed development. In cases where the impact to the neighborhood is of specific concern, the Planning Board may require a cross-section or full isometric drawing.
3. **Utility Plan.** A plan depicting all utilities, including sewer, water, electric, cable, lighting, etc. All easements shall be illustrated on the plan describing the bounds and purpose thereof.
4. **Landscape Plan.** A landscape plan showing the limits of work, existing tree lines, and all proposed landscape features and improvements including but not limited to, fences, walls, screening devices, decorative paving, irrigation systems, and planting areas with size and type for each shrub or tree. The plan shall contain a legend stating all common, botanical names, and at what stage of maturity each is represented of the proposed species to be planted.
5. **Improvements Plan.** A plan depicting all existing and proposed buildings, driveways or roads, parking areas, service areas, refuse collection areas, sidewalks, paths, etc.
6. **Building Elevation Plan.** Building elevation plans showing all elevations of all proposed buildings and structures and indicating the type and color of materials to be used on all facades including the dimensions of the building. Each elevation shall be labeled with its compass direction. The plan shall also include the location, dimension, height and characteristics of proposed signs.
7. **Erosion Control Plan:** A plan depicting all erosion control measures to be utilized in the project including, limit of work, all methods being utilized with their location depicted on the plan (ie. hay bales), sediment tracking pad, etc. Details shall be included for all measures.
8. **Details.** Detail sheets including, but not limited to, catch basins, signage (temporary and permanent), stormwater management structures, retaining walls, pavement markings, lighting fixtures, fencing, dumpster enclosures, curbing, any site improvements included in plan 3-7 above.
9. **Stormwater Management Plan.** Sufficient information to evaluate the environmental characteristics of the affected areas, the potential impacts of the proposed development on water resources, and the effectiveness and acceptability of measures proposed for managing stormwater runoff. The plan shall be reviewed by the City Engineer in compliance with the Holyoke Code of Ordinances – Stormwater & Erosion Control Ordinance.

### 10.1.6 Accompanying Narratives.

The site plan shall be accompanied by the following narrative information:

#### 1. Development Impact Statement:

- a. summarize the content of the site plans and set forth the development schedule;
- b. project the economic benefits and liabilities of the proposed development;
- c. detail the demands which will be placed on city services and infrastructure by the proposed development;
- d. explain how the proposed development will be integrated into the existing landscape through design features such as vegetation buffers and the retention of open space and/or agricultural land;
- e. demonstrate the consistency and compatibility of the proposed development with the existing master plan or similar documents;
- f. account for the impact of the proposed development on all streets and intersections adjacent to or within one-fourth (1/4) mile of the project boundaries or other such distance as may be approved by the Planning Board;
- g. detail adequate measures to prevent pollution of surface water or groundwater to minimize erosion and sedimentation and to prevent changes in groundwater levels, increased runoff and potential for flooding;
- h. assure that outdoor lighting, including lighting on the exterior of buildings or lighting in parking areas is arranged to minimize glare and light spillover to neighboring properties; and
- i. assure that all permits or licenses that may be required by federal, state or local law have been obtained, or will be obtained before construction begins.

#### 2. Traffic Impact Statement. The purpose of this section is 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. The traffic impact statement shall contain:

- a. The projected number of motor vehicle trips to enter or leave the site estimated for daily and peak hour traffic levels.
- b. The projected traffic flow pattern including vehicular movements at all major intersections likely to be affected by proposed use of the site.
- c. Traffic flow patterns at the site including entrances and egresses; loading and unloading areas, and curb cuts on-site and within five hundred (500') feet of the site.
- d. A detailed assessment of the traffic safety impacts of the proposed project or use on the carrying capacity of any adjacent highway or road, including the projected number of motor vehicle trips to enter and depart from the site estimated for daily hour and peak hour traffic levels, road capacities, and impact on intersections existing daily and peak hour traffic levels and road capacities shall also be given.
- e. A plan to minimize traffic and safety impacts through such means as physical design and layout concepts, staggered employee work schedules, promoting use of public transit or carpooling, or other appropriate means.
- f. An internal traffic and pedestrian circulation plan designed to minimize conflicts and safety problems.
- g. Adequate pedestrian and bicycle access to adjacent properties and between individual businesses within a development.
- h. Specific mitigation measures which alleviate impacts to the adjacent roadway network.
- i. The Planning Board may require a detailed traffic study for higher-volume traffic generating uses, regardless of any MEPA action or waiver.

#### 3. Traffic Impact Study. For all projects generating more than 700 vehicle trips per day (based on Institute of Transportation Engineers rates found in Trip Generation), or in other instances where the Planning Board so determines, the applicant shall be required to submit a detailed traffic study conducted by a MA Registered Transportation Engineer containing:

- a. The existing average daily and peak hours volumes, average and peak speeds, sight distances, accident data, and levels of service (LOS) of intersections and streets likely to be affected by the proposed development. Generally such data shall be presented for all streets and intersections adjacent to or within 2,500 feet of the project boundaries and shall also include all intersections clearly impacted by such development. LOS shall be determined according to criteria set forth by the Transportation Research Board of the National Research Council.

- b. Projected traffic conditions for design year of occupancy. Statement of design year occupancy, background traffic growth on an annual average basis, impacts of proposed developments which have already been approved in part, or in whole by the City.
- c. Projected impact of proposed development. Projected peak hour and daily traffic generated by the development of roads and ways within 2,500 feet of the development; sight lines at the intersections of the proposed driveways and streets; existing and proposed traffic controls in the vicinity of the proposed development; proposed traffic movements at all major intersections likely to be affected by the proposed use of the site; and projected post-development traffic volumes and levels of service of intersections and streets likely to be affected by the proposed development. The increase in vehicle trips attributed to the proposed project shall not decrease the LOS of any intersection affected by the project. Any decrease in LOS shall be mitigated by the applicant.
- d. A plan to minimize traffic and safety impacts through such means as physical design and layout concepts, staggered employee work schedules, promoting use of public transit or car-pooling, or other appropriate means.
- e. An internal traffic and pedestrian circulation plan designed to minimize conflicts and safety problems.
- f. Adequate pedestrian and bicycle access provided by supplying access to adjacent properties and between individual businesses within a development.
- g. Specific mitigation measures which alleviate impacts to the adjacent roadway network.
- h. A five-year forecast roadway capacity analysis with a discussion of the primary differences between development of the project (Build) and the alternative of not carrying out the project (No Build).

In the case where transportation improvements are required, the applicant shall be responsible for posting a monetary performance bond in a form and amount as recommended by the City Engineer and approved by the Planning Board, sufficient to guarantee all improvements as required by the Board. The Bond shall be held by the Department of Public Works.

- 4. Height/visibility impact. The Planning Board may require an on-site demonstration of the visibility of the proposed structure by means of the flying of a balloon in the case where the height of the proposed project will have an impact on the abutting properties.
  - a. The demonstration shall take place after the application for site plan review has been submitted.
  - b. The date of the demonstration must be advertised in a newspaper of general circulation within the city at least seven (7) days prior to the actual demonstration date at the applicant's expense.
  - c. Notice of the demonstration shall be provided at least seven (7) days in advance to direct abutters, Planning Board and City Council.
  - d. The demonstration must be for a minimum of 12 daylight hours or the maximum allowed by the season.
  - e. The balloon shall be of appropriate size, color and material to be seen from a distance of at least 300 feet.

#### **10.1.7 General Design Standards and Site Plan Review Criteria.**

The following criteria shall be considered by the city departments in the review and evaluation of the site plan:

- 1. The proposed development shall comply with the provisions of the ordinances of the City of Holyoke, the General Laws of Massachusetts and all applicable rules and regulations of state and federal agencies.
- 2. Landscape and Open Space. The proposed development shall be integrated into the existing terrain and surrounding landscape and shall be designed to protect abutting properties and community amenities. Building sites shall, to the extent feasible: (1) minimize use of wetlands, steep slopes, floodplains, hilltops; (2) minimize obstruction of scenic views from publicly accessible locations; (3) preserve unique natural or historical features; (4) minimize tree, vegetation and soil removal and grade changes; (5) maximize open space retention; and (6) screen objectionable features from neighboring properties and roadways.
- 3. Building Design. The architectural style shall be in harmony with the prevailing character and scale of buildings in the neighborhood through the use of appropriate building materials, screening, breaks in the roof or wall lines and other architectural techniques. Variation in detail, form and siting shall be used to provide visual interest and avoid monotony. Proposed buildings shall relate harmoniously to each other with adequate light, air, circulation, and separation between buildings.
- 4. Utilities. The proposed development shall be served with adequate water supply and waste disposal systems. For structures to be served by on-site waste disposal systems, the applicant shall submit a septic system design prepared by a certified engineer and approved by the Board of Health. The site plan shall show adequate

measures to prevent pollution of surface water or groundwater, to minimize erosion and sedimentation, and to prevent changes in groundwater levels, increased runoff and potential for flooding. Drainage shall be designed so that run-off shall not be increased, groundwater recharge is maximized, and neighboring properties will not be adversely affected. The proposed electric, telephone, cable TV, and other such utilities shall be underground where physically and environmentally feasible.

5. Circulation. The site plan shall show adequate access to and from the site, maximum convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent ways. Entrance and exit driveways shall be located and designed to achieve maximum distance from existing and proposed access connections from adjacent properties left-turn and other turning movements shall be minimized, driveways shall be located and designed as to discourage the routing of traffic to and through residential streets, and pedestrian and bicycle circulation shall be separated from motor vehicle circulation as much as possible.
6. Infrastructure. The development will not place excessive demands on city services and infrastructures.
7. Screening. Any exposed storage areas, machinery, service areas, HVAC system, dumpsters, outdoor storage, truck loading areas, utility buildings and structures or other unsightly uses shall be set back and screened to protect the neighbors from objectionable features. Materials utilized to enclose such features shall be of a material of similar type and color to the main structure, or similar durable material or of landscaped materials adequate to fully screen the feature.

#### **10.1.8 Stormwater Management Design Criteria and Standards.**

All stormwater management measures must comply with the Holyoke Stormwater & Erosion Control Ordinance. No site plan shall be approved unless the development provides design and management measures necessary to maintain the post development peak discharges for a 24-hour, two (2) year frequency storm event at a level that is equal to or less than the respective, pre-development peak surcharge rates. When the proposed discharge may have an impact upon a sensitive receptor, including streams, storm drains, combined sewers, roads, and/or buildings, the City Engineer may require an increase in these minimum requirements. The plan shall incorporate the following performance standards to accomplish this objective:

1. Stormwater Management Measures. Stormwater management measures shall be required to satisfy the minimum control requirements and shall be according to the following order of preference:
  - g. Low Impact Development technologies.
  - h. Infiltration, flow attenuation, and pollutant removal of runoff through the use of open vegetated swales, natural depressions or underground systems.
  - b. Detention and evaporation of stormwater on rooftops or in parking lots.
  - c. Use of stormwater on-site to replace water used in industrial processes or for irrigation.
  - c. Stormwater detention structures for the temporary storage of runoff which are designed so as not to create a permanent pool of water.
  - e. Stormwater retention structures for the permanent storage of runoff by means of a permanent pool of water.
2. Low Impact Development Incentives. An applicant that utilizes low impact development best practices as described in the Massachusetts Stormwater Management Guide shall be eligible for the incentives below as determined by the City Engineer in accordance with the level of utilization as listed below:
  - a. Waived site plan review application fee for all instances
  - b. Discounted sewer entrance fee in direct accordance with the amount of stormwater infiltrated using LID best practices.
  - c. Parking reduction by right if such area of reduction is used for area to utilize LID technologies



### **10.1.9 Action by the Planning Board.**

Site plan review shall be conducted in accordance with the procedures set forth in G.L. c. 40A for special permits. After determining that the site plan is in conformance with the requirements of this ordinance, and after considering the criteria set forth in Section 10.1.6, the Planning Board may approve, approve with modification, or disapprove the site plan application or grant leave to withdraw. Approval may be subject to any conditions, modifications and/or restrictions as the Planning Board may deem necessary. Leave to withdraw or disapproval by the Planning Board must be supported by written findings.

4. Failure to take action within ninety (90) days following the date of the public hearing shall be deemed to be a grant of site plan approval, and the site plan will be approved.
5. The Planning Board shall file a copy of its decision with the City Clerk within fourteen (14) days. No approval shall be issued until the twenty (20) day appeal period has lapsed.
6. The Planning Board may require the posting of a bond for public improvements in an amount to be recommended by the City Engineer, to assure compliance with the public improvements required by this site plan as approved by the Planning Board. The amount of the bond shall not exceed the cost of the public improvements.

### **10.1.10 Enforcement, Lapse and Appeal.**

The terms and conditions of site plan approval shall be enforced by the Building Commissioner. Any site plan approval issued under this section shall lapse within two (2) years if a substantial use thereof has not commenced sooner except for good cause. Such extension request shall be submitted to the Planning Board, in writing, prior to the expiration of said 2 year term. The time required to pursue and await determination of a judicial appeal pursuant to G.L. c. 40A shall not be included within the two (2) year time.

1. Appeal. Persons aggrieved by the action of the Planning Board pursuant to this Section 10.0 shall appeal in accordance with the provisions of G.L. c. 40A, s. 17.

## **10.2 TECHNICAL REVIEW**

### **10.2.1 General.**

1. Any special permit granting authority (SPGA), or the Planning Board in the conduct of site plan review, shall be authorized through rules to impose reasonable fees for the employment of outside consultants to assist in evaluating applications for special permits or site plan review, consistent with G. L. c. 44, s. 53G, in addition to minimum filing fees required in Appendix A of the Holyoke Code of Ordinances.
2. All reasonable costs approved by a two-thirds (2/3) vote as necessary for the employment of experts or consultants for the purpose of analyzing or evaluating a project that it is the subject of a special permit application or site plan review shall be assessed to the applicant and shall constitute required costs in addition to the filing fee.
3. No special permit application or site plan review shall be considered without payment in full of fees as outlined in this ordinance. Failure to pay costs as outlined herein shall be just cause for denial of an application without prejudice.
4. The amount of costs for a consultant or consultants shall be determined to the satisfaction of two-thirds (2/3) of the SPGA or Planning Board based upon estimates from professionals such as engineers, hydrologists, botanists, health physicists, and other professionals, as well as the recommendation(s), by city boards, department heads, city employees or other officials, including the City Council, which is derived from their expertise or which is derived from experience on similar projects. Hiring shall be consistent with Massachusetts General Laws and/or any special law or local ordinance.

### **10.2.2 Procedures.**

1. Upon a determination of the monies required for the evaluation or analysis by the consultant or consultants chosen to evaluate the project, the SPGA or the Planning Board, through the City Clerk, shall notify the applicant in writing, by first class mail, postage prepaid, of the fee required for such an evaluation. The SPGA or the Planning Board, through the City Clerk shall notify all other parties in interest by first class mail, postage

prepaid, of the nature of the evaluation and the choice of consultant. The City Solicitor and the Planning Director shall assist the City Council in identifying parties in interest that should be notified.

2. All required fees shall be paid by the applicant to the City Clerk in the City of Holyoke within ten (10) business days of receipt of such notification. For purposes of this section, receipt of notification shall be two (2) business days after the date of written notification to the applicant or the postmark thereon, if the postmark is a later date.
3. In the event that additional evaluation of the project is requested after the initial deposit of such funds, and if such additional evaluation is approved by a two-thirds (2/3) vote, the additional monies required shall be determined and these amounts shall be paid to the city. Determination of amounts of monies requested from the applicant, notification of the applicant parties in interest, and timelines for payment shall follow the procedures outlined above.
4. All fees paid and received by the City Clerk hereunder shall be deposited in a special account established by the auditor, to be maintained by the City Treasurer in the City Treasury and shall be kept separate and apart from other monies. The special account, including accrued interest, if any, shall be expended at the direction of the SPGA or the Planning Board in a manner consistent with this ordinance.
5. Any excess and unspent amount in the account attributable to a specific project, including any accrued interest, at the completion of said project or the denial of a permit shall be repaid to the applicant or to the applicants successor in interest and a final account of said account shall be made available to the applicant or the applicant's successor in interest. For purposes, of this section, a project shall be deemed complete upon issuance of a final Certificate of Occupancy by the Building Commissioner, or if no Certificate of Occupancy is required, by written certification of the Building Commissioner that the project is complete, or if a special permit or site plan is denied, at the point that the denial is Final and no appeal has been taken.
6. The Treasurer shall submit an annual report on July 1 of each year to the City Council, the City Auditor and the Mayor of all such special accounts and the balances for their review, as outlined in G.L. c. 44, s. 53G.
7. Failure to pay any fee assessed to the applicant shall be grounds for denial without prejudice of the special permit application.

### **10.2.3 Consultant Qualifications and Appeal.**

1. The minimum qualifications for a consultant shall consist of either an educational degree in or related to the field at issue or three (3) or more years of practice in the field at issue or related field, as provided by G.L. c. 44, s. 53G. The selection of a consultant(s) shall be recorded with the City Clerk within five (5) days of City Council's final selection(s).
2. In the event any party in interest in a special permit or site plan review proceeding is dissatisfied with any consultant selected by the City Council to analyze or evaluate any project that is the subject of said permit application, that person may file with the City Council through the City Clerk a written appeal of the selection.
3. The grounds of an appeal herein shall be limited to claims that the consultant has a conflict of interest or does not possess the minimum required qualifications. Appeals must be filed within seven (7) business days of the consultant(s) being recorded by the City Clerk. An appeal shall not be considered valid unless it is formally filed with the City Clerk, with a copy mailed to each member of the City Council.
4. The required time limits for action on a special permit application shall be extended by the duration of the administrative appeal, beginning with the date of filing of such appeal. The City Council shall hear and decide within thirty (30) business days of the filing of such appeal.
5. Such an administrative appeal shall not preclude further judicial review, if otherwise permitted by law, on the grounds provided for in this Section and outlined in G.L. c. 44, s. 53G.

### **10.2.4 Waiver.**

The SPGA or Planning Board shall be empowered, but not required, to waive all or part of any fee for applications submitted by municipal or charitable organizations, in addition to those waivers granted under Section 7-4 of Appendix A of the Holyoke Code of Ordinances.

### **10.2.5 Other.**

A copy of this ordinance shall be attached to, and be part of, any special permit application, in order for the applicant to be fully advised of the terms and conditions of this Section. All ordinances or parts of ordinances inconsistent herewith are hereby repealed.