

**ZONING**

**Chapter 235**

**City**

**of**

**MELROSE**

**GENERAL**  
**CODE**  
**PUBLISHERS**

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CITY OF MELROSE  
AMENDMENTS TO REVISED ORDINANCES  
CHAPTER 24 (ZONING ORDINANCE)  
PASSED AFTER 1972

Aldermanic Order No. 16985-C - Amending in whole the Zoning Ordinance of the City of Melrose (November 27, 1972).

Aldermanic Order No. 17857 - Amending Table of Use and Parking Regulations Article V, Section 5.4, by adding "S" under BB & BC as part of Item #12 (April 17, 1973).

Aldermanic Order No. 17858 - Amending Article VI, adding to Table of Dimensional and Density Regulations a figure 5 on line beginning with letters BA for "any permitted use" in place of the word "none" under column headed Minimum Yards, front (feet) (April 17, 1973).

Aldermanic Order No. 17859 - Amending Article VI, Section 6.7, in reference to accessory swimming pools requirements conforming to sections of Chapter 23 (Building Code Ordinance) (April 17, 1973).

Aldermanic Order No. 18052 - Amending Article IV, Section 4.3, adding at end of paragraph the words "except as hereinafter provided" (July 16, 1973).

Aldermanic Order No. 18053 - Amending Article IX, Section 9.2, on existing structure on non-conforming lot, etc. (August 6, 1973).

Aldermanic Order No. 18467 - Amending Article VI, Section 6.2, adding "town houses" to UR-B and UR-C to Table of Dimensional and Density Regulations (December 2, 1974).

Aldermanic Order No. 18561 - Amending Article II, Definitions, Section 2.1, "Family" to insert ", provided dwelling is owner occupied," after word "including" and before "not more than three lodgers or roomers taken for hire." (December 2, 1974).

Aldermanic Order No. 18562 - Amending Article II, Definitions, Section 2.1, "Special Exception (Special Permit)" to insert "on approval and issuance of a special permit by the Board" in place of "the approval of the Board." (December 2, 1974).

Aldermanic Order No. 18563 - Amending Article V, Table of Use and Parking Regulations, Section 5.4, under Parking Code change "P" to "T" and Section 8.1 under Table of Off-Street Parking Regulations, the Parking Code T and explanation (December 2, 1974).

Aldermanic Order No. 18564 - Amending Article VI, Dimensional and Density Regulations, Section 6.8, cl. 1, on page 6-3, changes in residential uses (December 2, 1974).

Aldermanic Order No. 18565 - Amending Article VII, Section 7.4, under 2(a.) and (d.), changing wall sign area from 150 square feet to 100; delete paragraph (b), altogether, moving up (c.) and (d.) to be (b.) and (c.) respectively; Section 7.6, Non-conforming Signs, removed within five years instead of ten years from November 27, 1972 adoption date (December 2, 1974).

Aldermanic Order No. 18566 - Amending Article XI, Special Exception Conditions, Section 11.4, Cluster Residential Development, necessary technical changes to add SR. to statements made under (c.) and (d.) (December 2, 1974).

Aldermanic Order No. 19530 - Affecting zoning changes in Administration and Enforcement, Special Permits and Conditions, Removal and Filling, Home Occupation, etc. (June 6, 1977).

Aldermanic Order No. 19531 - Amending Zoning Map by re-designation of certain zoning districts or portion thereof so as to allow Special Permits under procedures for Design Review (June 6, 1977).

Aldermanic Order No. 19532 - Amending Zoning Map by re-designation of certain zoning district or portion thereof so as to allow Special Permits under procedures for Design Review (June 6, 1977).

Aldermanic Order No.19696 - Amending Zoning Map to move district line between BD district and UR-A district on certain portion of Rowe Street, etc., etc. (December 19, 1977).

Aldermanic Order No. 19676-C - Amending Table of Use and Parking Regulations by adding Item 18, etc., etc. (February 21, 1978).

Aldermanic Order No.19676-D - Relative to striking out Screening and Buffers, etc., etc., in Dimensional and Density Regulations, etc. (February 21, 1978).

Aldermanic Order No.19703 - Relative to Table of Use and Parking Regulations, etc. in District BA and BA-1 on line 17, striking out symbol "P" and replacing with symbol "S" (February 21, 1978).

Aldermanic Order No.20051 - Amending Zoning Map to shift two lots on Porter Street, Nos. 33 and 39, and lot on East Emerson Street, No. 56, from BD District to UR-A Residential (December 18, 1978).

Aldermanic Order No. 20052 - Amending Article V, Section 5.4, Table of Use and Parking Regulations, changing parts of 14 and 14A, permitting lodging units as accessory uses to single residences in UR-A zone by special permit only, etc., etc. (December 18, 1978).

Aldermanic Order No. 20053 - Amending Article VIII, Off-Street Parking and Loading Regulations, Parking Code J, Hospital, change from 1.75 per bed at design capacity to 1.50 per bed at design capacity (December 18, 1978).

Aldermanic Order No.20211 - Amending Sections 6.7 and 6.8, Article VI, Dimensional and Density Regulations, regarding swimming pools, awnings, and vision at intersections (December 18, 1978).

Aldermanic Order No. 20531 - Amending Chapter 24, Zoning Map, to change district line between UR-B and UR-D permitting development of multifamily housing in the Coolidge School (April 7, 1980).

Aldermanic Order No.20550 - Amending Article VIII, Off-Street Parking and Loading Regulations, Section 8.9 - Municipal Parking Lots use by structures in certain areas without requirement of special exception (May 19, 1980).

Aldermanic Order No. 729 - Amending Zoning Map, area east of Lebanon Street, north of Malvern Street, west of Faxon and Gooch Streets and south of Upham Street, changing from UR-B to UR-A (July 16, 1984).

Aldermanic Order No. 730 - Amending Zoning Map, area west of Boston & Maine Railroad, south of Brunswick Park and north of West Wyoming Avenue, changing from UR-B to UR-A (July 16, 1984).

Aldermanic Order No. 731 - Amending Zoning Map, area consisting of three sub-areas near corner of Franklin and Greenwood Streets, changing from UR-C to UR-A (July 16, 1984).

Aldermanic Order No. 675 - Amending Article IV, Interpretation and Application by inserting after Section 4.4 new Section 4.5, Temporary Moratorium (July 16, 1984).

Aldermanic Order No. 515 - Amending Zoning Map, by moving district line between UR-D and BA-1 permitting development of Community Center (November 15, 1984).

Aldermanic Order No. 957 - Amending Article IX, Nonconforming Uses, Structures and Lots, Section 9.2 - Extension and Alteration (February 19, 1985).

Aldermanic Order No. 1472 - Amending Zoning Map, area fronting on Main Street and West Wyoming Avenue, changing from UR-D to UR-C; areas on Waverly Place changing from UR-D to UR-B; and areas on East Wyoming Avenue, Mt. Vernon Street and Mt. Vernon Avenue, changing from UR-D to UR-B (December 1, 1986).

Aldermanic Order No. 1453-A - Amending Zoning Ordinance by adding Article XV - Flood Plain Districts, to conform with requirements under Section 1361 of the National Flood Insurance Act of 1968 (May 4, 1987).

Aldermanic Order No. 1575 - Amending Article VIII - Off Street Parking and Loading Regulations, Section 8.1 B (Off Street Parking Requirements), amended by striking out 1

1/2 per dwelling unit and inserting in place thereof 2 per dwelling unit (May 4, 1987).

Aldermanic Order No. 1650 - Amending Zoning Map, area bounded by Main Street, boundary line of Malden and Melrose, M.B.T.A. railroad tracks, and Banks Place, changing from I, UR-C, and BC to BB-1. Amending Section 5.4 - Table of Use and Parking Regulations under Retail Service Commercial adding new use relating to planned business development.. Amending Section 11.11, the first paragraph, subsection 2, subsection 5, and subsection 11 relating to planned business development (May 4, 1987). Aldermanic Order No. 1691-A - Amending Article 6.2, Table of Dimensional and Density Regulations under UR-A, two-family dwelling and town house delete minimum lot area of "5,000 per dwelling unit" (July 20, 1987).

Aldermanic Order No. 1691-C - Amending Article II, DEFINITIONS, by deleting the existing definition of town house and inserting the following in place thereof: "A row of at least three but not more than five 1-family attached dwelling units whose side walls are separated from other dwelling units by a fire wall or walls. Each unit in the row may be owned by a separate owner." (July 20, 1987).

Aldermanic Order No.1692-A - Amending Article 6.2, Table of Dimensional and Density Regulations, by deleting the word "other" from the second use listed under UR-C/UR-D, etc. (July 20, 1987).

Aldermanic Order No. 2111 - Amending Section 8.10 (Parking & Loading Space Standards) by striking out the words "containing over five (5) spaces." (October 16, 1989).

Aldermanic Order No. 2312 - Amending Article V (Table of Use) and Article II (Definitions), various additions relating to Public/Private Utility Cabinets (October 16, 1989).

Aldermanic Order No.1735 - Amending Article II, DEFINITIONS, after the definition for Floor Area Ratio and before the definition for Garage add definition for Frontage. In Section 6.8.10 after the words: Table of Dimensional and Density Regulations insert a period and delete ", except ..... requirement." In Section 6.2, Table of Dimensional and Density Regulations, add the words "frontage and" between min. and lot width in the heading (December 7, 1989).

Aldermanic Order No. 1573 - Amending Article V, Section 5.4, Table of Use & Parking Regulations, by inserting #1 "One-family detached dwelling: One-family with in-law apartment with permitted uses set forth on Usage Table be amended under SR, SR-A, SR-B from P to S - Permit required (December 7, 1989).

Aldermanic Order No. 1574 - Amending Section 2.1, DEFINITIONS, by inserting definition for In-Law Apartment and amending Article V, Section 5.4, Table of Use and Parking Regulations by adding a new line 1A. after line 1. for "One-family with in-law apartment (see definition of in-law apartment)." (December 21, 1989).

Aldermanic Order No. 90-209 - Amending Article II, DEFINITIONS, by deleting the definition of Frontage as most recently amended and replacing same with new definition (August 20, 1990).

Aldermanic Order No. 90-211 - Amending Article VIII, Section 8.9 - Municipal Parking Lots, by addition of new paragraph (August 20, 1990).

Aldermanic Order No. 91-99 - Amending Article V, Section 5.4, Table of Use and Parking Regulations, RETAIL, SERVICE, COMMERCIAL, under item #12, strike out the "S" pertaining to UR-C, UR-D, and replace with designation (-) so that item #12 shall not be permitted in the UR-C, UR-D Districts (March 18, 1991).

Aldermanic Order No. 93-112A - Amending Article VIII, Section 8.9, Municipal Parking Lots, by deletion of third paragraph (January 4, 1993).

Aldermanic Order No. 94-368 - Amending Article VII, Signs, Section 7.2, by permitting temporary political signs with certain restrictions (October 17, 1994).

Aldermanic Order No. 95-189 - Amending Article II, Definitions; Article V, Use Regulations; Article VI, Dimensional and Density Regulations; Article VII, Signs; Article VIII, Off-Street Parking and Loading Regulations; Article XI, Non-Conforming Uses, Structures, and Lots; Article X, Administration and Enforcement; Article XII, Removal and Filling; Article XIII, Home Occupation; and Amending Zoning Map in the W. Emerson Street/Cedar Park area and the Altamont Avenue/Cedarwood Lane area. (May 1, 1995)

Aldermanic Order No. 95-189A - Amending Article VIII, Off-Street Parking and Loading Regulations, Section 8.1, changing Parking Code J from 1.5 per bed at design standard to one per each 600 sq. ft. of gross floor area. (May 1, 1995)

Aldermanic Order No. 97-38 - Amending Article II, Definitions, Article V, Use Regulations, Article XI Special Permits and Conditions, and Article VIII, Off-Street Parking and Loading Regulations, to provide definitions, principal use locations, restrictions, and parking requirements for adult uses. (December 16, 1996)

Aldermanic Order No. 99-021 – Amending Article II, Definitions, Article V, Use Regulations, and Article XI, Special Permits and Conditions; Adding Article XVI, Wireless Communications Service Facilities, to provide definitions, principal use locations, and restrictions for Wireless Communications Service Facilities (January 4, 1999).

Aldermanic Order No. 02-066C – Amending Article XI, Section 11.2.7 *Certification and recording of Special Permit or Variance* to add paragraph and Article X, Section 10.9.3.d *Board of Appeals Procedures* to add paragraph (February 19, 2002).

Aldermanic Order No. 04-184A – Amending Chapter 235 Article XI, Section 235.61B(5) *Special permits under the Affordable Housing Incentive Program* prescribed in Section 235-73.1 and add new section, “Section 235-73.1 *Affordable Housing Incentive Program*” (August 9, 2004).

Aldermanic Order No. 05-003 – Amending Chapter 235, Section 16 Add new section, Chapter 235, Section 16.1 *Site Plan Review* (December 13, 2004).

Aldermanic Order No. 05-171 – Amending Chapter 235, Section 16.1, Subsection J by adding the first sentence in Subsection J, “Said administrative fee to be \$500.00 for each Site Plan Review Application plus \$.10 per square foot of new gross floor area for every development proposal with a new gross floor area of 5,000 square feet or more”. (March 21, 2005).

Aldermanic Order No. 06-050 – Amending Chapter 235, Article VII, Signs, Section 235-29 B (1) by replacing the current Section 235-29B (1) with the following language, “One wall sign for each lot street frontage of each establishment, provided that it shall be attached and parallel to the main wall of the building, it shall not project horizontally more than 15 inches therefrom, the surface area of the sign shall not aggregate more than 10% of the area of the wall on which it is displayed or 100 square feet, whichever is the lesser, and, if illuminated, it shall be illuminated externally by steady, stationary, white light, of reasonable intensity, shielded and directed solely at the sign, not casting direct or reflected light off the premises and not used other than for identifying the establishment.” (December 5, 2005).

Aldermanic Order No. 06-017 – Amending Chapter 235, Article XI, Special Permits and Conditions, Section 235.61B. by adding: subsection “(6) Special permits under Slope Protection prescribed in Section 235-73.2 of this ordinance” and further adding “Section 235-73.2 Slope Protection” (December 19, 2005).

Aldermanic Order No. 07-027 – Amending the zoning area from UR-B district to UR-A district for properties east of Boston Rock to include properties having frontage on East Wyoming Ave and Wyoming Heights (February 20, 2007).

Aldermanic Order No. 07-027 – Amending the zoning area from UR-B district to UR-A district for properties east of Chestnut Street including Chestnut Park but not including properties with frontage on Lynde Street or Mystic Ave (March 19, 2007).

Aldermanic Order No. 07-132 – Amending zoning ordinances by amending, Article II Section 235-5 Definitions (Adding new definitions for Building Front Yard and Impervious Surfaces and amending the definition of Open Space), Article VII Section 235-38. Location of Parking Spaces, Article VIII Section 235-41. Parking and Loading Space Standards. (August 23, 2007).

Aldermanic Order No. 07-044A – Amending zoning ordinances regulating Home Occupations by amending, Article II Section 235-5 Definitions (Home Occupation), Article V Section 235-17. Table of Use and Parking Regulations, Article VIII Section 235-42. Parking of Commercial Vehicles, Article XIII Section 235-77. Home Occupation – Conditions. (May 7, 2007).

Aldermanic Order No. 08-128 – Amending the zoning ordinances by adding Section 235-71.1 Smart Growth District and further amending, Article III Establishment of Districts, Section 235-6 Divisions into districts; Section 235-8 Changes to Map; Section 235-17. Table of Use and Parking Regulations. (April 7, 2008).

Aldermanic Order No. 08-128A – Amending the zoning ordinances by amending Section 235-16.1 *Site Plan Review*. (April 7, 2008).

Aldermanic Order No. 06-244 – Amending the zoning ordinances by amending Section 235-73.2 *Slope Protection*. Subsection-G, rescind fees, no longer part of zoning ordinance. (May 19, 2008).

Aldermanic Order No. 05-171-A – Amending the zoning ordinances by amending Section 235-16.1. Subsection-J, rescind fees, no longer part of zoning ordinance (May 19, 2008).

Aldermanic Order No. 09-060 – Amending the zoning ordinances by amending Article II Section 235-5. *Definitions*, insert Retail Food Establishment (February 19, 2009).

Aldermanic Order No. 09-061 – Amending the zoning ordinances by amending Article V Section 235-15. *Permitted Uses* and 235-17, *Table of Use and Parking Regulations*, insert new category for Retail Food Establishment under the Heading Retail Commercial Services (February 19, 2009).

Aldermanic Order No. 10-125 – Amending the zoning ordinances by amending Section 235-16.1. Subsection-G, Review schedule, for new renewable and alternative energy research in the Industrial District, the decision of the SCRC shall be made within one year from the date of filing the site plan review with the City Clerk (May 3, 2010).

Aldermanic Order No. 10-128 – Amending the zoning ordinances by amending Article XV Flood Plain District, Section 235-81. *Establishment*, Section 235-81.1. *Reference to Existing Regulations*, Section 235-82. *Development Regulations*, Section 235-82.1. *Notification of Watercourse Alteration*, Section 235-83. *Subdivisions and New Development*, Section 235-84. *Health Regulations*, for the map panels dated June 4, 2010 (May 17, 2010).

**\*\*\*\*Please note that this bound version of the Zoning Ordinance does not include amendments adopted since July 2010. Please refer to the Recent Zoning Amendments included with this bound copy for the affected sections of the Zoning Ordinance and the amended text.**

Aldermanic Order No. 12-10 – Amending Melrose Revised Zoning Ordinances (Signage): Article II. *Definitions*, Section 235-5; Article VI, *Dimensional and Density Regulations*, Section 235-25; Article VII. *Signs*, Section 235-26 through 235-31; and Article XIII, *Home Occupations*, Section 235-77 (December 5, 2011).



Aldermanic Order No. 2013-44 – Amending Melrose Revised Zoning Ordinances, Chapter 235: Article II. *Definitions*, Section 235-5; and Table of Use and Parking Regulations, Sec. 235-17 be, and hereby are amended to regulate Medical Marijuana Treatment Centers (January 22, 2013).

Aldermanic Order No. 2013-198 – Amending Section 235-5 of the Melrose Zoning Ordinance Amending *Definitions* of “Basement”, “Story”, and “Story, Half” (September 16, 2013).

Aldermanic Order No. 2013-199 – Zoning Amendment to *Regulate Medical Marijuana Treatment Centers* amending Article II. *Definitions*, Section 235-5; and *Table of Use and Parking Regulations*, Sec. 235-17 (September 16, 2013).

Aldermanic Order No. 2013-200 – Amending the zoning ordinances by amending Section 235-58 and Section 235-59 of the Melrose Zoning Ordinance regulating *Notices of Violations and Penalties* (September 16, 2013).

Aldermanic Order No. 2014-95 – Amending the zoning ordinances by amending Article III. Section 235-7. Zoning Map by renaming the BB zoning district along Tremont Street to a BB-1 zoning district (May 5, 2014).

Aldermanic Order No. 2014-146 – Amending the zoning ordinances to create a *Rail Corridor Overlay District* and other related zoning amendments. Amending Section 235-6 *Establishment of Districts*, Section 235-71.1 *Smart Growth District* and adding Section 235-71.2 *Rail Corridor Overlay District*. (July 21, 2014).

Aldermanic Order No. 2015-90 – Amending Melrose Revised Zoning Ordinances Article III. Section 235-6 *Division into Districts* and other related zoning amendments for the Commuter Rail Station areas:

- Section 235-6 Division into districts;
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- Section 235-17 Table of Use and Parking Regulations;
- Section 235-19 Table of Dimensional and Density Regulations;
- Section 235-25 Additional Dimensional and Density Provisions;
- Section 235-32 Off-street parking requirements;
- Section 235-40 Municipal parking lots;
- Section 235-65 Multifamily residential use in nonresidentially zoned areas authorized by Planning Board;
- Section 235-66 Design review permits authorized by Planning Board;
- Section 235-70 Planned unit development in the BA, BA-1, BB, BB-1, BC and BD Districts;
- Section 235-71 Planned business development.
- Section 235-71.2 Rail Corridor Overlay District, by amending the following:
  - Section 235-71.2, Paragraph E. Dimensional and density regulations- subsection (5) Development intensity- paragraph (a), by striking the number 45 and replacing it with 60;
  - Section 235-71.2, Paragraph F. Off-street parking- subsection (4) Parking setbacks- paragraph (a), by striking the reference

5(a) and replacing it with 4(a); and  
Section 235-71.2, Paragraph H. Affordable housing – subsection (2), by  
striking the reference 235-71.1 and replacing it with  
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# **Zoning**

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#### ARTICLE I Title, Authority and Purpose

§ 235-1. Title.

This chapter shall be known and may be cited as the "Zoning Ordinance of the City of Melrose, Massachusetts," hereinafter referred to as "this chapter."

(Ord. No. 16985C, 11-27-1972)

**§ 235-2. Authority.**

This chapter is adopted pursuant to the authority granted by MGL c. 40A and amendments thereto, herein called the "Zoning Act." Where the Zoning Act is amended from time to time after the effective date of this chapter and where such amendments are mandatory, such amendments shall supersede any regulations of this chapter which have been set forth on the basis of the Zoning Act in existence at the effective date of this chapter.

(Ord. No. 16985C, 11-27-1972)

**§ 235-3. Purpose.**

This chapter is enacted for the following purposes: to lessen congestion in the streets; to conserve health; to secure safety from fires, panic and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population and to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements; to conserve the value of land and buildings; to encourage the most appropriate use of land throughout the City; and to preserve and increase its amenities and to encourage an orderly expansion of the tax base by utilization, development and redevelopment of land. It is made with reasonable consideration to the character of the district and to its peculiar suitability for particular uses, with a view to giving direction or effect to land development policies and proposals of the Planning Board, including the making of Melrose a more viable and more pleasing place to live, work and play.

(Ord. No. 16985C, 11-27-1972)

**ARTICLE II  
Word Usage and Definitions****§ 235-4. Word usage.**

- A. For the purpose of this chapter and unless the context of usage clearly indicates another meaning, certain terms and words shall have the meaning given herein. Words used in the present tense include the future; the singular number includes the plural, and the plural the singular; the word "used" or "occupied" includes the words "designed, arranged, intended or offered to be used or occupied"; the word "building," "structure," "lot," "land" or "premises" shall be construed as though followed by the words "or any portion thereof"; and the word "shall" is always mandatory and not merely directory.
- B. Terms and words not defined herein but defined in the Melrose Building Code shall have meanings given therein unless a contrary intention clearly appears. Words not defined in either place shall have the meaning given in Webster's Unabridged Dictionary. Uses listed in the Table of Use Regulations under the classes "retail and service trades" and "wholesale trade and manufacturing" shall be further defined by the Standard Industrial Classification Manual published by the United States Bureau of the Census.

(Ord. No. 16985C, 11-27-1972)

**§ 235-5. Definitions.**

As used in this chapter, the following terms shall have the meanings indicated:

ABANDONMENT:

- A. The cessation of a nonconforming use as indicated by the visible or otherwise apparent intention of an owner to discontinue a nonconforming use of a structure or lot; or
- B. The replacement of a nonconforming use or structure by a conforming use or structure.

ADMINISTRATIVE OFFICER — The Building Commissioner, City of Melrose, Massachusetts.

ADULT BOOKSTORE — An establishment having as a substantial or significant portion of its stock-in-trade books, magazines and other matter which are distinguished or characterized by their emphasis

(Cont'd on page 23505)





depicting, describing or relating to sexual conduct or sexual excitement as defined in MGL c. 272, § 31, as amended. For purposes herein, "substantial or significant portion of stock" shall mean more than 25% of the subject establishment's inventory stock or more than 25% of the subject premises' gross floor area.

**ADULT CLUB** — A club, restaurant, function hall or similar private or commercial establishment which regularly features:

- A. Persons who appear in a state of nudity as defined in MGL c. 272, § 31, as amended;
- B. Live performances which are characterized by an emphasis depicting anatomical areas, specified as less than completely and opaquely covered human genitals, pubic region, buttock and female breast below a point immediately above the top of the areola, and human genitals in a state of sexual arousal or relating to sexual conduct or sexual excitement as defined in MGL c. 272, § 31, as amended; or
- C. Films, motion pictures, video cassettes, slides or other photographic, magnetic or electronic reproductions which are characterized by the depiction or description of anatomical areas specified as above or relating to sexual conduct or sexual excitement as defined in MGL c. 272, § 31, as amended.

**ADULT MOTION PICTURE THEATER** — An enclosed building used for presenting material (motion picture films, video cassettes, cable

television, slides or any other such visual media) distinguished by an emphasis on matter depicting, describing or relating to sexual conduct or sexual excitement as defined in MGL c. 272, § 31, as amended.

**ADULT PARAPHERNALIA STORE** — An establishment having as a substantial or significant portion of its stock devices, objects, tools or toys which are distinguished or characterized by their association with sexual activity, including sexual intercourse, sexual conduct or sexual excitement as defined in MGL c. 272, § 31, as amended.

**ADULT USE** — An adult bookstore, adult club, adult motion picture theater, adult paraphernalia store or adult video store as defined in this chapter.

**ADULT VIDEO STORE** — An establishment having as a substantial or significant portion of its stock-in-trade, for sale or rent, motion picture films, video cassettes and similar audio/visual media which are distinguished or characterized by their emphasis depicting, describing or relating to sexual conduct or sexual excitement as defined in MGL c. 272, § 31, as amended. For purposes herein, "substantial or significant portion of stock" shall mean more than 25% of the subject establishment's inventory stock or more than 25% of the subject premises' gross floor area.

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

**ANTENNA** — A device for directly transmitting or receiving electromagnetic transmissions.

**APARTMENT HOUSE** — A building designed or intended or used as the home or residence of three or more families, each in a separate dwelling unit, living independently of each other, and who may have a common right in halls and stairways.

**BASEMENT** — A portion of a building, partly below grade, which has more than  $\frac{1}{2}$  of its height, measured from finished floor to finished ceiling, above the average finished grade of the ground adjoining the building. A basement is not considered a story unless its ceiling is four feet or more above the averaged finished grade.

**BOARD** — The Board of Appeals of the City of Melrose, Massachusetts.

**BUILDING** — A combination of any materials, whether portable or fixed, having a roof, enclosed within the exterior walls or fire walls, built to form a structure for the shelter of persons, animals or property. For purposes of this definition, "roof" shall include an awning or any similar covering, whether or not permanent in nature.

**BUILDING, ACCESSORY** — A detached building, the use of which is customarily incidental and subordinate to that of the principal building, and which is located on the same lot as that occupied by the principal building.

**BUILDING AREA** — The aggregate of the maximum horizontal cross-sectional area of all buildings on a lot exclusive of cornices, eaves, gutters,

chimneys, unenclosed porches, bay windows, balconies and terraces.

**BUILDING, ATTACHED** — A building having any portion of one or more walls in common with adjoining buildings.

**BUILDING COVERAGE** — The building area expressed as a percent of the total lot area.

**BUILDING, DETACHED** — A building having open space on all sides.

**BUILDING FRONT YARD** — The area of the front yard between the front lot line and the principal building bound by lines extending from each front corner of the principal building perpendicular to the street. No more than 20% of the building front yard on residential properties with three or fewer dwelling units shall be covered with an impervious surface.

**BUILDING, HISTORICAL** — A building certified or qualified for certification by the Massachusetts Historical Commission in accordance with its published standards as an historical landmark.

**BUILDING, NONCONFORMING** — An existing building or structure or the existing use of any building or structure at the time of adoption of this chapter, or any subsequent amendment thereto, which does not conform to one or more of the applicable dimensional and density regulations for the district in which the building is located.

**BUILDING, PRINCIPAL** — A building in which is conducted the principal use of the lot on which it is located.

**CELLAR** — A portion of a building, partly or entirely below grade, which has more than ½ of its height, measured from finished floor to finished ceiling, below the average finished grade of the ground adjoining the building. A cellar is not deemed a story.

**CERTIFICATE OF OCCUPANCY** — A statement signed by the Building Commissioner setting forth either that a building or structure complies with the zoning ordinance or that a building, structure or parcel of land may lawfully be employed for a specified use, or both.

**COMMON LAND** — A parcel or parcels of open space within the site designated for a cluster or planned unit development maintained and preserved for open uses and designed and intended for the use or enjoyment of residents of these developments, but not including parking areas or ways, public or private. Common land may contain such complementary structures and improvements as are necessary and appropriate for the benefit and enjoyment of such residents.

**COMMUNICATIONS TOWER** — A tower that is freestanding or anchored with cables, used to support an antenna or other voice or data transmission and receiving devices.

**DISTRICT** — A zoning district as established by Article III of this chapter.

**DRIVE-IN EATING ESTABLISHMENT** — A commercial establishment wherein food is usually served to or consumed by patrons while they are seated in parked cars.

**DRIVE-IN ESTABLISHMENT** — A business establishment wherein patrons are usually served while seated in parked vehicles in the same lot. The term “drive-in” includes drive-in eating establishments where food is purchased from a building on the lot but is consumed in the vehicle; drive-in service establishments such as banks, cleaners and the like; and automotive service stations, gasoline stations or the like.

**DRIVEWAY** — An open space, located on a lot, which is not more than 24 feet in width, built for access to a garage or off-street parking or loading space.

**DWELLING** — A privately or publicly owned permanent structure, whether owned by one or more persons or in condominium, which is occupied in whole or in part as the home residence or sleeping place of one or more persons. The term “one-family,” “two-family” or “multifamily” dwelling shall not include a hotel, lodging house, hospital, membership club, mobile home or dormitory.

**DWELLING, MULTIFAMILY** — A building containing three or more dwelling units and including an apartment house, garden apartment house and multifamily dwellings.

**DWELLING UNIT** — One or more living and sleeping rooms providing complete living facilities for the use of one or more individuals constituting a single housekeeping unit, with permanent provisions for living, sleeping, eating, cooking and sanitation.

**ESSENTIAL SERVICES** — Services provided by public utility or 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. 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 and accessories in connection therewith. Specifically excluded from this definition are buildings necessary for the furnishing of adequate service by such public utility or governmental agencies for the public health, safety or general welfare.

**FAMILY** — An individual or two or more persons related by blood or marriage living together as a single housekeeping unit and including necessary domestic help, such as nurses or servants, and further including, provided that the dwelling is owner-occupied, not more than three lodgers or roomers taken for hire. A group of individuals (including necessary domestic help, such as nurses or servants, but excluding lodgers or roomers taken for hire) not related by blood or marriage but living together as a single housekeeping unit may constitute a family. For purposes of controlling residential density, each such group of four individuals shall constitute a single family.

**FLOOD LINE** — The limits of flooding from a particular body of water caused by a storm whose frequency of occurrence is once in 25 years, as determined and certified by a registered professional engineer qualified in drainage.

**FLOODWAY** — The area subject to periodic flooding, the limits of which are determined by the flood line.

**FLOOR AREA, GROSS** — The sum of the gross horizontal area of the several floors, including basements, of a principal building and its accessory buildings on the same lot, measured from the exterior faces of the walls. It does not include cellars; unenclosed porches or attics not used for human occupancy; malls within a shopping center utilized purely for pedestrian circulation and/or decorative purposes between individual shops of the center; any floor space in an accessory or principal building intended and designed for the parking of motor vehicles in order to meet the parking requirements of this chapter; or any such floor space intended or designed for accessory heating, ventilating and air-conditioning equipment.

**FLOOR AREA RATIO** — The ratio of the gross floor area to the total lot area.

**FRONTAGE** — The length of continuous lineal footage of a lot as measured between the intersection of the side lot lines along a street. In the case of a corner lot, frontage shall be measured from the side lot line along the street to the intersection of street lines or street lines extended. A circle, the diameter of which is not less than 80% of the required minimum lot frontage and is tangent to the street lot line at any point, must be able to fit within all other lot lines. The acute angle measured between the frontage and any side lot line shall not be less than 55°.

**GARAGE** — A building or structure or a portion thereof in which a motor vehicle containing a flammable fluid in

its fuel storage tank or other propellant is stored, housed and kept. This does not include a new car salesroom.

**GARAGE, CARPORT** — A roofed structure attached to a residence, enclosed on not more than two sides, designed to house one, two or three motor vehicles.

**GARAGE, COMMUNITY** — A group of private garages, either detached or under one roof, arranged in a row or around a common means of access.

**GARAGE, PRIVATE** — A garage for housing motor vehicles only, with a capacity of not more than three vehicles.

**GARAGE, PUBLIC** — Any garage not included in the definition of a private garage or a community garage.

**HEIGHT** — The vertical distance from the average finished grade of the adjacent ground to the top of the structure of the highest roof beams of a flat roof, the deck of a mansard roof or the mean level of the highest gable or slope of a hip roof.

**HOME OCCUPATION** — An accessory use which is carried on entirely within a dwelling unit and is incidental and subordinate to the dwelling use and which shall not occupy more than 40% of the gross floor area or 600 square feet, whichever is less, of the dwelling unit so used. Such use shall be carried on by the occupants of the dwelling unit, with no nonresident employees, and shall not in any manner change the residential appearance of the building or the property.

**HOSPITAL** — A building providing, among others, twenty-four-hour inpatient services for persons admitted

thereto for the diagnosis, medical, surgical or restorative treatment or other care of human ailments, including a sanitarium and clinic.

**HOSPITAL, VETERINARY** — A building providing for the diagnosis and treatment of ailments of animals other than human, including facilities for overnight care.

**HOTEL** — A building or any part of a building containing rooming units without individual cooking facilities and having a common entrance or entrances and including an inn, motel, motor inn and tourist court, but not including a boardinghouse, lodging house or rooming house.

**IMPERVIOUS SURFACES** — A surface composed of any material that significantly impedes or prevents natural infiltration of water into the soil. [A surface with an overall permeability coefficient which is less than  $10^{-4}$  centimeters per second (cm/sec) is considered significant.] Impervious surfaces include, but are not limited to, roofs, paved areas (e.g., streets, sports courts) and swimming pools.

**IN-LAW APARTMENT** — A dwelling unit either contained within an owner-occupied one-family structure (such as, but not limited to, a cellar or attic) or attached thereto (such as, but not limited to, a garage or barn) which constitutes separate living facilities for immediate members of the family, such as a mother and/or father or a son and/or daughter or their respective spouses. See "dwelling unit" as defined in this section.

A. An accessory in-law apartment is a separate, subordinate living area constructed as part of an

existing owner-occupied single-family structure and built in a manner which maintains the appearance of a single-family structure.

- B. There shall be no boarders or lodgers within either unit of a dwelling with an accessory in-law apartment.
- C. No accessory in-law apartment shall be constructed without a building permit issued by the Building Inspector.
- D. No use as an accessory in-law apartment shall be permitted prior to a certificate of occupancy by the Building Inspector.
- E. A certificate of occupancy shall be issued for three years. Continued occupancy shall require issuance of a new certificate of occupancy.
- F. The dwelling unit shall be located within the single-family dwelling as it existed on January 1, 1990.
- G. The dwelling unit shall occupy no more than  $\frac{1}{3}$  of the gross floor area as of January 1, 1990.

**JUNK** — Any worn out, castoff or discarded articles or material which is ready for destruction or has been collected or stored for salvage or conversion to some use. Any article or material which unaltered or unchanged and without further reconditioning can be used for its original purpose as readily as when new shall not be considered junk.

**JUNKYARD** — The use of more than 200 square feet of the area of any lot, whether inside or outside a building, or the use of any portion of any lot that joins any street for the storage, keeping or abandonment of junk.

**LINE, BUILDING** — The line established by this chapter beyond which a building shall not extend, except as specifically provided in this chapter.

**LOADING SPACE** — An off-street space at least 12 feet in width, 50 feet in length and with a vertical clearance of at least 14 feet, having an area of not less than 1,300 square feet, which includes access and maneuvering space, used exclusively for loading and unloading of goods and materials from one vehicle. The dimensions of the loading space may be reduced by the Building Commissioner to not less than 300 square feet, which includes access and maneuvering space, when it is clearly evident that service vehicles utilizing said space will not require the area listed above.

**LODGING HOUSE** — A building containing four or more lodging units.

**LODGING UNIT** — One or more rooms for the semipermanent use of one, two or three individuals not living as a single housekeeping unit and not having cooking facilities. "Lodging unit" shall include rooms in boardinghouses, lodging houses, tourist homes or rooming houses. It shall not include convalescent, nursing or rest homes; dormitories of charitable, educational or philanthropic institutions; or apartments or hotels.

**LOT** — An area or parcel of land or any part thereof, not including water area, in common ownership, designated on a plan filed with the Building Commissioner by its owner or owners as a separate lot and having boundaries identical with those recorded in the Middlesex County Registry of Deeds.

**LOT, CORNER** — A lot at the point of intersection of and abutting on two or more intersecting streets, the interior angle of intersection of the street lot lines or, in case of a curved street, extended lot lines, being not more than 135°. For purpose of this chapter, each street frontage shall be considered a front yard and the remaining two yards shall be considered rear yards.

**LOT DEPTH** — The mean horizontal distance between the front lot line and the rear lot line.

**LOT, INTERIOR** — A lot, excluding a corner lot, the side lot lines of which do not abut on a street.

**LOT LINE, FRONT** — The property line dividing a lot from a street right-of-way.

**LOT LINE, REAR** — The lot line opposite from the front lot line.

**LOT LINE, SIDE** — Any lot line not a front or rear lot line.

**LOT, NONCONFORMING** — A lot lawfully existing at the effective date of this chapter, or any subsequent amendment thereto, which is not in accordance with all provisions of this chapter.

**LOT, THROUGH** — A lot, the front and rear lot lines of which abut streets, or a corner lot, two opposite lines of which abut streets.

**LOT WIDTH** — The horizontal distance between the side lot lines as measured at the minimum front yard depth required by this chapter and parallel to the street line.

**MEMBERSHIP CLUB** — A social, sports or fraternal association or organization which is used exclusively

by members and their guests and is not conducted as a gainful business.

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

**OPEN SPACE** — The space on a lot not covered by buildings, structures, or impervious surfaces, unobstructed to the sky by man-made objects and expressed as a percentage of total lot area.

**OWNER** — The duly authorized agent, attorney, purchaser, devisee, trustee, lessee or any person having vested or equitable interest in the use, structure or lot in question.

**PARKING SPACE** — An off-street space inside or outside a structure for exclusive use as a parking stall for one motor vehicle.

**PLANNED DEVELOPMENT** — A development involving the construction of two or more principal buildings on the same lot for any permitted use.

**REPAIR** — With respect to a building or structure, any construction which replaces materials and does not change the height, number of stories, size, use or location of a structure.

**RETAIL FOOD ESTABLISHMENT** — A retail store selling food products, not to be consumed on the premises, which shall include but not be limited to one or more of the following: fresh cheese, fresh meat or delicatessen products, freshly prepared baked goods or confections, natural and organic food or beverages, and which may also sell incidental to the sale of food products therein, wines and malt beverages, but



not tobacco products, lottery tickets, pharmacy items, toiletries, personal care products or photographic supplies or services. The term "retail food establishment" as used herein shall further comport with the definition of "establishment" as defined in Chapter 327 of the Acts of 2008.

**SERVICE STATION** — A building or part thereof whose chief activity is the selling of gasoline, oil and related products for motor vehicles or the provision of lubricating service or general auto repair.

**SETBACK** — The shortest horizontal distance from the front lot line to the nearest building wall or building part not specifically excluded by § 235-25.

**SIGN** — Any permanent or temporary structure, device, letter, word, model, banner, pennant, insignia, trade flag, streamer, display, emblem or representation used as, or which is in the nature of, an advertisement, announcement or direction or is designed to attract the eye by intermittent or repeated motion, illumination and/or location.

**SIGN, BUSINESS** — A sign used to direct attention to a service, product sold or other activity performed on the same premises upon which the sign is located.

**SIGN, IDENTIFICATION** — A sign used simply to identify the name, address and title of an individual family or firm occupying the premises upon which the sign is located.

**SIGN, ROOF** — A sign erected on or affixed to the roof of a building.

**SIGN, STANDING** — A sign erected on or affixed to the land, including any

exterior sign not attached to a building.

**SIGN, SURFACE AREA OF** — For a sign, either freestanding or attached, the area shall be considered to include all lettering, wording and accompanying designs and symbols, together with the background, whether open or enclosed, on which they are displayed, but not including any supporting framework and bracing which are incidental to the display itself. For a sign consisting of individual letters, designs and symbols attached to or painted on a surface, building, wall or window, the area shall be considered to be that of the smallest quadrangle which encompasses all of the letters, designs and symbols.

**SIGN, WALL** — A sign affixed to the exterior wall of a building and extending not more than 15 inches therefrom.

**SPECIAL EXCEPTION (SPECIAL PERMIT)** — A use of a structure or lot or any action upon a premises which may be permitted under this chapter only upon application to and on approval and issuance of a special permit by the Board and in accordance with provisions of Article X.

**STORY** — The portion of a building which is between one floor and the next higher floor level or the roof. If a mezzanine floor area exceeds  $\frac{1}{3}$  of the area of the floor immediately below, it shall be deemed a story. A basement shall be deemed to be a story when its ceiling is four or more feet above the finished grade. A cellar shall not be deemed a story. An attic shall not be deemed a story if unfinished and without human occupancy.

**STORY, HALF** — A story under a gable, hipped or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than two feet above the floor of such story.

**STREET** — A way which is 21 or more feet in right-of-way width which is accepted or devoted to public use by legal mapping or by any other lawful procedure. It shall be synonymous with the words "road," "avenue," "highway" and "parkway" and similar designations.

**STRUCTURE** — A combination of materials for permanent or temporary occupancy or use, such as a building, bridge, trestle, tower, framework, retaining wall, tank, tunnel, tent, stadium, reviewing stand, platform, swimming pool, shelters, piers, wharves, bin, fence, sign or the like.

**TOWNHOUSE** — A row of at least three but not more than five one-family dwelling units whose side walls are separated from the other dwelling units by a fire wall or walls. Each unit in the row may be owned by a separate owner.

**TRAILER** — Any vehicle which is immediately portable and is arranged, intended, designed or used for sleeping, eating or business or is a place in which persons may congregate, including a mobile home, house trailer or camper. A trailer, whether immediately portable or no longer immediately portable by virtue of having its wheels removed or skirts attached, shall not be considered a building for the purpose of this chapter.

**USE** — The purpose for which a structure or lot is arranged, designed

or intended to be used, occupied or maintained.

**USE, ACCESSORY** — A use incidental and subordinate to the principal use of a structure or lot or a use, not the principal use, which is located on the same lot as the principal structure. Accessory use by area shall be interpreted not to exceed 40% of the area of the total use of the structure and/or lot on which it is located.

**USE, NONCONFORMING** — A use lawfully existing at the time of adoption of this chapter or any subsequent amendment thereto which does not conform to one or more provisions of this chapter.

**USE, PRINCIPAL** — The main or primary purpose for which a structure or lot is designed, arranged or intended or for which it may be used, occupied or maintained under this chapter. Any other use within the main structure or the use of any other structure or land on the same lot and incidental or supplementary to the principal use and permitted under this chapter shall be considered as accessory use.

**USE, SUBSTANTIALLY DIFFERENT** — A use which by reason of its normal operation would cause readily observable differences in patronage, service, appearance, noise, employment or similar characteristics from the use to which it is being compared.

**UTILITY CABINET, PUBLIC/PRIVATE** — Any structure used by a public utility for providing continuity of service not over seven feet in height and requiring less than a two-hundred-square-foot base area, of

which only 50% may be occupied by cabinet.

**VARIANCE** — Such departure from the terms of this chapter as the Board, upon appeal in specific cases, is empowered to authorize under the terms of Article X.

**WIRELESS COMMUNICATIONS COMPANY** — An entity that provides wireless communications services. For zoning purposes a wireless communications company is not a public services corporation or a public utility and must comply with the provisions of this chapter.

**WIRELESS COMMUNICATIONS SERVICE FACILITY (WCSF)** — A facility for the provision of personal wireless services as defined by the Federal Telecommunications Act of 1996, as amended. Such facilities include but are not limited to transmitting and receiving equipment, antennas, antenna structures and supports and related accessory structures or equipment, monopoles and satellite dishes over three feet in diameter.

**WIRELESS COMMUNICATIONS SERVICES** — Personal wireless services as defined in the Federal Telecommunications Act of 1996, as amended. By way of example but not limitation, personal wireless services include cellular telephone services, personal communications services (PCS) and commercial mobile radio services.

**YARD** — A portion of a lot, upon which the principal building is situated, unobstructed artificially from the ground to the sky and having at least two sides open to lot lines.

**YARD, FRONT** — A yard extending for the full width of the lot between the front line of the nearest building wall or building part not specifically excluded by § 235-25 and the front lot line.

**YARD, REAR** — A yard, unoccupied except by an accessory structure or accessory use as herein permitted, extending for the full width of the lot between the rear line of the building wall and the rear lot line.

**YARD, SIDE** — A yard extending for the full length of a building between the nearest building wall and the side lot line.

(Ord. No. 16985C, 11-27-1972; Ord. No. 18561, 12-2-1974; Ord. No. 18562, 12-2-1974; Ord. No. 1691C, 7-20-1987; Ord. No. 2312, 10-16-1989; Ord. No. 1735, 12-7-1989; Ord. No. 1574, 12-21-1989; Ord. No. 90-209, 8-20-1990; Ord. No. 95-189, 5-1-1995; Ord. No. 97-38, 12-16-1996; Ord. No. 99-021, 1-4-1999; Ord. No. 07-132, 5-7-2007; Ord. No. 07-044A, 8-23-2007; Ord. No. 09-060, 2-17-2009)

### ARTICLE III Establishment of Districts

#### § 235-6. Division into districts.

The City of Melrose, Massachusetts, is hereby divided into 14 zoning districts to be designated as follows:

Full Name	Class	Short Name
Suburban Residence	Residential	SR
A Suburban Residence	Residential	SR-A
B Suburban Residence	Residential	SR-B
A Urban Residence	Residential	UR-A

Full Name	Class	Short Name	Full Name	Class	Short Name
B Urban Residence	Residential	UR-B	Extensive Business	Business	BB
C Urban Residence	Residential	UR-C	Extensive Business	Business	BB-1
D Urban Residence	Residential	UR-D	Local Business	Business	BC
Smart Growth District		SGD	Medical Business	Business	BD
General Business	Business	BA	Industrial	Industrial	I
General Business	Business	BA-1	Industrial A		I-A

(Cont'd on page 23515)



- A. Residential districts, as a group, are herein referred to as "R" districts.
- B. Business districts, as a group, are herein referred to as "B" districts.
- C. Industrial districts, as a group, are herein referred to as "I" districts.

(Ord. No. 16985C, 11-27-1972; Ord. No. 08-128, 4-7-2008)

#### § 235-7. Zoning Map.

The location and boundaries of the zoning districts are hereby established as shown on a map titled "Zoning Map of the City of Melrose, Massachusetts," dated November 1972, which accompanies and is hereby declared to be a part of this chapter. The authenticity of the Zoning Map shall be identified by the signature of the Mayor, attested by the City Clerk, and the imprinted Seal of the City under the following words:

"This is to certify that this is the Zoning Map of the City of Melrose, Massachusetts, referred to in the Zoning Ordinance of the City of Melrose, Massachusetts, which was adopted by the Board of Aldermen on November 27, 1972."

(Ord. No. 16985C, 11-27-1972)

#### § 235-8. Changes to map.

Any change in the location of boundaries of a zoning district hereafter made through the amendments of this chapter shall be indicated by the alteration of such map, such changes to be dated and authenticated as prescribed in § 235-7. The map thus altered is declared to be part of this chapter thus amended. The Building Commissioner shall be responsible for making changes to the Zoning Map. Such changes shall be made within 14 days of the final approval of amendments. The Zoning Map shall be drawn

at a scale of one inch equals 650 feet with ink on stable material and shall be located in the office of the Building Commissioner. Photographic reductions of this large-scale map may serve as copies of the Zoning Map.

(Ord. No. 16985C, 11-27-1972)

#### § 235-9. Boundaries of districts.

Where any uncertainty exists with respect to the boundary of any district as shown on the Zoning Map, the following rules apply:

- A. Where a boundary is indicated as a street, alley, railroad, watercourse or other body of water, it shall be construed to be the center line or middle thereof or, where such boundary approximates a City boundary, then to the limits of the City boundary.
- B. Where a boundary is indicated as following approximately or parallel to a street, railroad, watercourse or other body of water, it shall be construed to be parallel thereto and at such distance therefrom as shown on the Zoning Map. If no dimension is given, such distance shall be determined by the use of the scale shown on the Zoning Map.
- C. Where a dimensional boundary or the actual property boundary coincides within 10 feet or less with a lot line, the boundary shall be construed to be the lot line.
- D. Where a boundary is indicated as intersecting the center line of a street, railroad, watercourse or other water body, and unless it is otherwise indicated, it shall be construed to intersect at right angles to said center line or, in the case of a curved center line, to the tangent to the curve at the point of intersection.

E. The abbreviation "PL" means property line as shown on the City Assessor's Map as in effect at the effective date of this chapter. The abbreviation "PL," when used in conjunction with a subsequent amendment to this chapter, shall mean a property line as shown on the City Assessor's Map as in effect at the effective date of such amendment.

F. The abbreviation "CL" means center line and "CI" means center of intersection.

(Ord. No. 16985C, 11-27-1972)

#### ARTICLE IV Interpretation and Application

##### § 235-10. Interpretation.

The provisions of this chapter shall be interpreted to be the minimum requirements adopted for the promotion of the health, safety, morals or the general welfare of the City of Melrose, Massachusetts, and except for Chapter 25, Zoning, of the Revised Ordinances of 1956, City of Melrose, Massachusetts, and all subsequent amendments thereto, the provisions of this chapter are not intended to repeal, amend, abrogate, annul or in any way impair or interfere with any lawfully adopted ordinance, covenants, regulations or rules. Whenever the regulations made under the authority hereof differ from those prescribed by any statute, ordinance or other regulation, that provision which imposes the greater restriction or the higher standard shall govern.

(Ord. No. 16985C, 11-27-1972)

##### § 235-11. Application.

Except as herein provided, the provisions of this chapter shall apply to the erection, construction, reconstruction, alteration or use of buildings or structures or use of land. Except as herein provided, any existing conforming use, structure or lot shall not by any action become nonconforming, and any existing nonconforming use, structure or lot shall not become further nonconforming.

(Ord. No. 16985C, 11-27-1972)

##### § 235-12. Existing buildings and land.

This chapter shall not apply to existing buildings or structures, nor to the existing use of any building or structure or of land, to the extent to which it is legally used at the time of adoption of this chapter, but it shall apply to any change of use thereof and to any alteration of a building or structure when the same would amount to reconstruction, extension or structural change and to any alteration of a building or structure to provide for its use for a purpose or a manner substantially different from the use to which it was put before alteration or for its use for the same purpose to a substantially greater extent, except as hereinafter provided.

(Ord. No. 16985C, 11-27-1972; Ord. No. 18052, 7-16-1973)

##### § 235-13. Mixed uses.

In cases of mixed occupancy, the regulations for each use shall apply to the portion of the building or land so used.

(Ord. No. 16985C, 11-27-1972)

# ARTICLE V Use Regulations

## **§ 235-14. Applicability.**

Except as provided in this chapter, no building, structure or land shall be used except for the purposes permitted in the district as described in this article. Any use not listed shall be construed to be prohibited.

(Ord. No. 16985C, 11-27-1972)

## **§ 235-15. Permitted uses.**

In the Table of Use and Parking Regulations,<sup>1</sup> the uses permitted by right in the district shall be designated by the letter "P," except that any use listed in the Table of Use and Parking Regulations as a permitted use, the proposed location of which does not abut on a street which is laid out and accepted as a traveled way, or which has not been built to subgrade, so that such way or street is passable for fire apparatus and other traffic, or which abuts on a street or way in which there is no public sewer or in which there is no water available for connection with the building after completion, may be permitted only as an exception by special permit. Those uses that may be permitted as an exception by special permit in the district, in accordance with Articles X and XI, shall be designated by the letter "S." Uses designated "-" shall not be permitted in the district.

(Ord. No. 16985C, 11-27-1972)

## **§ 235-16. Uses subject to other regulations.**

Uses permitted by right or by special exception shall be subject, in addition to use

regulations, to all other provisions of this chapter.

(Ord. No. 16985C, 11-27-1972)

## **§ 235-16.1 Site plan review.**

A. Purpose and intent. The purpose of this section is to ensure that the design and layout of new commercial, industrial and multifamily development will not be detrimental to surrounding land uses. The intent of the site plan review process is to regulate, rather than prohibit, uses through reasonable conditions which may be imposed by the Melrose Planning Board (Site Plan Review Committee, SPRC) concerning location of buildings, signs, open space, landscaping, parking areas, access and egress, drainage, sewage, water supply, and public safety.

### B. Applicability.

- (1) A site plan review is required for all new commercial and industrial uses. New multifamily uses consisting of four or more units shall also require a site plan review, as shall any extension in excess of 2,500 square feet of an existing industrial, commercial, or multifamily use.
- (2) Construction or expansion of a parking lot for a municipal, institutional, commercial, industrial, or multifamily structure or purpose shall also require a site plan review.
- (3) In the instance where a project is to be phased, or where property abutting the proposed development can be used in a similar fashion and is held by a related entity, or where a

<sup>1</sup> Editor's Note: The Table of Use and Parking Regulations is included at the end of this chapter.



development proposal is an extension of an abutting development built within the previous five years and held by a related entity, the total development capacity of all parcels shall be considered for purposes of determining applicability for site plan review.

- (4) The provisions of this section shall not apply to a development which has been scrutinized from a design perspective by the Design Review Subcommittee and received a special permit or variance from the relevant permit granting authority at the time of adoption of this § 235-16.1, nor to any such development which is subsequently modified in accordance with the provisions of this ordinance, provided that such design review provisions remain substantially unchanged as a result of any such modification.

C. Relationship to the building permit.

- (1) The Building Inspector shall not issue a building permit unless and until a site plan review has been obtained, and a letter to that effect with or without site plan conditions has been forwarded to the Building Inspector by the SPRC. The conditions shall become conditions of the building permit and shall be met prior to the issuance of a permanent occupancy permit. No material deviation from an approved site plan shall be made without approval from the Site Plan Review Committee. If any particular condition of the plan is found to not comply with city or state codes, all remaining

conditions shall remain applicable.

- (2) Before issuing a permanent occupancy permit, the Building Commissioner shall require that the applicant provide to the Building Commissioner two sets of as-built site drawings and exterior elevations. One copy shall be forwarded to the SPRC; the other copy shall remain on file in the Inspectional Services Department.
- (3) Developments required to undergo a site plan review process in accordance with this Chapter 235, § 235-16.1 shall not be required to obtain a special permit for more than four accessory parking spaces under § 235-17, accessory use No. 18.

D. Site plan submission criteria.

- (1) The applicant shall submit 14 copies of a site plan proposal. Dimensions and scales of the plan shall be adequate to determine that all requirements are met and to make a complete analysis and evaluation of the proposal. The site plan review application materials shall be submitted to the Office of Planning and Community Development (OPCD). The site plan review application materials will be reviewed for completeness within seven days and returned to the applicant. The application materials may then be submitted to the City Clerk to be time stamped and filed.
- (2) The OPCD shall transmit nine copies of said application to the SPRC, one copy to City Clerk to

be filed, one copy each to the City Engineer, Board of Health, and the Building Commissioner, and one copy will be available in OPCD for review by the City Planner, Fire Chief, Police Chief, and Conservation Commission. All departments shall report their comments, conditions, remedial measures and recommendations, in writing, to the SPRC within 30 days. Any department that does not respond within 30 days will be deemed to have waived any objection to the application. A copy of the executive summary shall be transmitted to the Mayor, School Department and the City Solicitor.

- (3) At a minimum, the submittal materials shall include the following items as applicable:
- (a) An executive summary generally describing the nature and location of the project, including parking and loading, traffic flow and circulation, projected traffic volumes and impact, external lighting, landscaping and screening, utilities and protection and/or enhancement of existing natural areas;
  - (b) Parcel lot lines for the proposed project and surrounding parcels;
  - (c) Height and use of all buildings abutting the proposed project, including a building or buildings directly across from the proposed project but separated by a public or private right-of-way;

- (d) Proposed parking plan including location of access and egress;
- (e) Estimated average daily traffic and peak hour traffic to be generated by the proposal;
- (f) Level of service analysis for nearby intersections;
- (g) Transportation management plan (TMP), including policies for parking management, transit promotion, bicycle storage, pedestrian safety and car sharing. The TMP shall explain the long-term management and enforcement of the TMP components;
- (h) Location of existing and proposed buildings on the project site;
- (i) Rendering of all facades of proposed buildings;
- (j) Handicapped access provisions;
- (k) Foundation lines of the proposed buildings, gross floor area, and building height;
- (l) Location of solid waste containers and the nature of any required screening;
- (m) Existing and proposed topography and the location of all natural features such as wetlands, streams, water bodies, and exposed bedrock to be removed, if any;
- (n) Areas subject to a one-hundred-year flood, if any;

- (o) Provisions for drainage and sewage;
  - (p) Provisions for the protection of abutting properties during construction, and site excavation, demolition, blasting, and site reclamation plans if appropriate;
  - (q) Proposed landscaping, including all screening and buffering of adjacent residential areas;
  - (r) Provisions for fencing, walls, and the existing and proposed lighting;
  - (s) Location, material, and size of all signs;
  - (t) The location, materials and dimensions of loading areas, walkways and driveways.
- (4) Plans shall be prepared by a registered professional engineer, registered land surveyor, architect, or landscape architect, as appropriate. Any of the requirements of a site plan review application may be waived by majority vote of the SPRC.
- (5) When a proposal requires site plan review as well as a special permit and/or variance, the applicant may elect the order for pursuing the requirements. Where the Planning Board serves as the special permit granting authority for proposed work, it shall consolidate its site plan review and special permit procedures.
- E. Site plan review criteria. The SPRC shall at a minimum review all site plans for the following and shall find that the following criteria are fulfilled:
- (1) Consistency with the design, character, and scale of the surrounding area.
  - (2) Consistency with all sign, design, landscaping, lighting, buffering, and public safety requirements and standards established by City of Melrose departments.
  - (3) Protection and enhancement of important existing natural, historic or scenic site features.
  - (4) Protection of adjacent properties and surrounding areas from detrimental impacts during and after construction, including but not limited to, air and water pollution, flood, noise, odor, dust, vibration, and lighting.
  - (5) Convenience and safety of vehicular and pedestrian movement within the site and of the location of driveway openings in relation to traffic and/or adjacent streets.
  - (6) Adequacy and arrangement of parking spaces, bicycle racks, internal ways, loading areas, and sidewalks, and the ability of the site plan to accommodate parking in areas other than the front of the building.
  - (7) Adequacy of the local streets to accommodate the traffic generated by the proposed use. When a level of service (LOS) analysis is required to make this determination, the proposed development shall comply with the following standards:
    - (a) LOS at nearby intersections shall not be degraded more than one level as a result of traffic generated by the

- proposed development, nor shall any nearby intersection degrade below the level of D. Intersections with an existing LOS of E or F shall not result in increased delay time or be made worse.
- (b) Safety hazards shall not be created, added to, or exacerbated as a result of traffic generated by the proposed development.
  - (c) If any of the standards in Subsection E(7)(a) and (b), above are violated, the applicant shall provide alternative proposals to meet the standards, including, but not limited to, reduction in the size of the development, change in the proposed uses on the site, contributions to off-site street and intersection improvements or construction of off-site street and intersection improvements.
- (8) Adequacy of sewerage and water supply systems within the site to serve the proposed use without overloading the municipal systems to an extent that the health, safety or general welfare of residents of the city are put at risk.
  - (9) Adequacy of proposed methods of refuse disposal and storage.
  - (10) Adequacy of snow management, including removal or on-site storage.
  - (11) Adequacy of soil erosion plan and the plan for protection of steep slopes, both during and after construction.
  - (12) Stormwater management:
    - (a) Stormwater systems shall be designed to protect the public and environment from flooding, siltation, pollutants and related drainage impacts and shall conform to the applicable performance standards included in the Massachusetts Department of Environmental Protection Stormwater Management Policy or any successor legislation.
    - (b) Stormwater systems shall be designed to use low-impact design (LID) methodologies to mitigate drainage impact. LID methodologies may include porous pavements, bioretention cells, infiltration trenches, rainwater collection cisterns and other design methods that maximize the use of landscaped areas for stormwater control and promote the re-use of runoff.
    - (c) Stormwater flood mitigation shall be provided through the use of best management practices (BMPs) to further reduce the frequency and intensity of flooding otherwise generated at the proposed site. To the extent practicable, BMPs shall be sized to capture, retain, and percolate to ground all runoff from impermeable surfaces generated by the five-year twenty-four-hour storm event. Preferred BMPs shall include, but not be limited to, constructed wetlands, pocket wetlands, rain gardens,

vegetated swales,  
retention/detention ponds,  
and subsurface leaching  
systems.

(13) Adequacy of landscaping,  
including the screening of  
adjacent residential uses, street  
trees, landscape islands in any  
parking lots and landscape buffers  
along the street frontage.

(14) Adequacy of screening for storage  
areas, loading docks, dumpsters,  
rooftop equipment, utility  
buildings and similar features.

F. Site Plan Review Committee:  
composition. The Site Plan Review  
Committee (SPRC) shall be the  
Melrose Planning Board.

G. Review schedule. The SPRC shall open  
a public hearing on the application no  
later than 65 days after the  
application materials have been filed  
with the City Clerk. Notice of such  
public hearing shall be provided as  
required by Massachusetts General  
Laws, Chapter 40A, § 11. The decision  
of the SPRC shall be made within 35  
days of the close of the public hearing.  
The required time limits for a public  
hearing and decision may be extended  
by written agreement between the  
applicant and the SPRC. For new  
renewable and alternative energy  
research and development establish-  
ments permitted in the Industrial  
Districts, the decision of the SPRC  
shall be made within one year from  
the date of filing the site plan review  
application with the City Clerk. The  
decision of the Site Plan Review  
Committee shall be upon a concurring  
vote of the majority of SPRC members  
and shall be in writing. The SPRC may  
approve the application as submitted,

approve subject to modifications or  
conditions, or deny the application. A  
written decision setting forth the  
record of the proceedings, the vote of  
each member and the reasons for the  
decision shall be filed in the office of  
the City Clerk within 14 days. In the  
event of a denial, the application and  
site plan may be resubmitted if the  
reasons for the denial are remedied.  
Failure by the SPRC to take action  
within 35 days of the close of the  
public hearing or within the agreed  
upon extended time or within one year  
of filing a completed site plan review  
application in the case of a new  
renewable or alternative energy  
research and development establish-  
ment permitted in the Industrial  
Districts shall be deemed an approval  
of the site plan. The City Clerk shall  
issue a certificate stating the date of  
the public hearing and the fact that  
the SPRC failed to take final action  
and the date of the approval resulting  
from such failure.

H. Expiration of site plan approval. Site  
plan approval shall lapse after two  
years from the grant thereof if a  
substantial use thereof has not sooner  
commenced. Such approval may, for  
good cause, be extended in writing by  
the Planning Board upon the written  
request of the applicant.

I. Appeals. The applicant or any  
aggrieved person may appeal any or  
all conditions of a site plan review to  
the Melrose Board of Appeals  
pursuant to General Laws, Chapter  
40A, § 8 and § 235-60(C)(1)(a) of the  
Melrose Zoning Ordinance.

(Ord. No. 05-003, 12-13-2004; Ord. No.  
05-171, 3-21-2005; Ord. No. 08-128A,  
4-7-2008; Ord. No. 05-171A, 5-19-2008; Ord.  
No. 10-125, 5-3-2010)

**§ 235-17. Table of Use and Parking Regulations.**

See table at the end of this chapter which is declared to be a part of this chapter.

(Ord. No. 16985C, 11-27-1972)

**ARTICLE VI  
Dimensional and Density Regulations**

**§ 235-18. Applicability.**

The regulations for each district pertaining to minimum lot area, minimum lot width,

(Cont'd on page 23518.5)



minimum lot depth, minimum front yard depth, minimum side yard width, minimum rear yard depth, maximum height of buildings, maximum number of stories, maximum building area, maximum floor area ratio and minimum open space shall be as specified in this section and as set forth in the Table of Dimensional and Density Regulations and subject to the further provisions of this chapter.

(Ord. No. 16985C, 11-27-1972)

#### **§ 235-19. Table of Dimensional and Density Regulations.**

See table at the end of this chapter plus attached notes, which are declared to be part of this chapter.

(Ord. No. 16985C, 11-27-1972)

#### **§ 235-20. Reduction of lot area.**

The lot or yard areas required for any new building or use may not include any part of a lot that is required by any other building or use to comply with any provisions of this chapter, nor may these areas include any property of which the ownership has been transferred subsequent to the effective date of this chapter if such property was a part of the area required for compliance with the dimensional regulations applicable to the lot from which such transfer was made. At least 60% of the lot area required for zoning compliance shall be contiguous land other than land located in a wetland, as defined in MGL c. 131, § 40, or land located under a brook, creek, stream, river, pond or lake.

(Ord. No. 16985C, 11-27-1972; Ord. No. 95-189, 5-1-1995)

#### **§ 235-21. Separation of lots.**

Lots shall not be separated or transferred in ownership so as not to comply with the provisions of this chapter.

(Ord. No. 16985C, 11-27-1972)

#### **§ 235-22. Screening and buffers in industrial or business districts.**

Screening and buffers shall be required in any industrial or business district which adjoins a residential district as follows: this strip shall be at least 25 feet in width, except when abutting a residential use in the UR-C district, in which case the width may be reduced to 10 feet. It shall contain a screen of plantings of vertical habitat in the center of the strip not less than three feet in width and six feet in height at the time of occupancy of such lot. Individual shrubs or trees shall be planted not more than three feet on center and shall thereafter be maintained by the owner or occupants so as to maintain a dense screen year-round. At least 50% of the plantings shall consist of evergreens and they shall be evenly spaced.

(Ord. No. 16985C, 11-27-1972)

#### **§ 235-23. Buildings in floodway.**

A building, except a boathouse, shall not be erected in a floodway or in any area subject to periodic flooding unless the first floor elevation is higher than the highest flood recorded. If such flood elevation shall have been reduced by construction of dams at the headwaters, or by other means, the first floor elevation may be correspondingly lowered to the reduced flood level.

(Ord. No. 16985C, 11-27-1972)

#### **§ 235-24. Accessory buildings and other structures.**

- A. In the "R" districts, a detached accessory building shall conform to the provisions set forth in the following schedule:



District	Maximum Coverage (percent of required rear yard area) <sup>1</sup>	Front	Distance From Lot Line (feet) Side and Rear	Building Height (feet)
SR	25%	20	10	20
SR-A	25%	20	10	20
SR-B	40%	15	10	20
UR-A	50%	15	4 <sup>2</sup>	20
UR-B	50%	15	4 <sup>2</sup>	20
UR-C	50%	15	4 <sup>2</sup>	20
UR-D	50%	15	4 <sup>2</sup>	20

**NOTES:**

<sup>1</sup>The required rear yard area is calculated by multiplying the required rear yard depth by the required lot width.

<sup>2</sup>The required distance from side and rear lot lines for accessory private swimming pools shall be 10 feet in all districts. Any swimming pool with side walls over two feet in depth shall be enclosed in an impassable six-foot-high fence with a self-latching gate or an equivalent enclosure or means of protection from access to the pool as defined in the State Building Code. Self-enclosed pools shall be enclosed to a height of six feet above ground level with a self-latching gate or an equivalent impassable enclosure as approved by the Building Commissioner.

(Cont'd on page 23519)

- B. An accessory building attached to the principal building shall be considered as an integral part thereof and shall be subject to front, side and rear yard requirements applicable to the principal building. Accessory buildings in the "B" and "I" districts may be located on the lot so as not to violate the minimum front yard, height restrictions and minimum open space requirements set forth in the Table of Dimensional and Density Regulations. Other accessory structures shall be governed by the regulations for accessory buildings unless specifically exempt by the Board as a special exception.

(Ord. No. 16985C, 11-27-1972; Ord. No. 17859, 4-17-1973; Ord. No. 20211, 12-18-1978)

**§ 235-25. Additional dimensional and density provisions.**

In addition to the regulations in §§ 235-18 through 235-24 above, the following regulations shall apply:

- A. Existing residential uses in all nonresidential districts shall be subject to the regulations for the particular type of dwelling in the UR-C District. Any new residential uses in nonresidential districts shall be subject to the dimensional and density regulations of the nearest residential district as determined by the Building Commissioner.
- B. Except for planned developments for multifamily development, cluster residential development, planned unit development or commercial development, and except for community facilities and public utilities, only one principal structure shall be permitted on a lot. In the

case of planned multifamily developments other than planned unit development, the minimum distance between the walls of such principal buildings which contain windows shall be twice the minimum side yard or side setback required in the district. The minimum lot area required per each individual dwelling unit, building or other unit or use shall be multiplied by the number of such units to obtain the minimum lot area required for the total tract of land. Other area regulations shall apply to the tract.

- C. A corner lot shall have minimum street yards with the depths which shall be the same as the required front yard depths for the adjoining lots.
- D. At each end of a through lot, there shall be a setback depth required which is equal to the front yard depth required for the district in which each street frontage is located.
- E. Projections into required yards or other required open spaces are permitted subject to the following:
- (1) Balcony or bay window, limited in total length to  $\frac{1}{2}$  the length of the building, not more than two feet.
  - (2) Open terrace or steps or stoop, such as a porch, platform or entrance stairway, under four feet in height, up to  $\frac{1}{2}$  the required yard setback.
  - (3) Steps or stoop over four feet in height, windowsill, chimney, roof eave, fire escape, fire tower, storm enclosure or similar architectural features, not more than two feet.

- (4) No permit shall be required for the erection or replacement of fixed or retractable awnings installed on one- and two-family dwellings, unless they project over public property, or for retractable awnings installed above the first story or where the awning does not project over the public street or lot line or over any court or yard serving as a passage from a required exitway to a public street. For any other fixed or retractable awning, canopy or hood, a building permit shall be obtained from the Building Commissioner for the erection, repair or replacement of any such device which shall meet the requirements of the State Building Code. Lettering on the skirt of an awning is permissible but such lettering shall be limited to the name of the owner or establishment.
- F. The provisions of this chapter governing the height of buildings shall not apply to chimneys, cooling towers, elevator bulkheads, skylights, ventilators, electronic equipment, elevator shafts and other necessary appurtenances usually carried above the roof; nor to domes, towers, stacks or spires, if not used for human occupancy and which occupy not more than 20% of the ground floor area of the building; nor to ornamental towers, observation towers, radio broadcasting towers, television and radio antennas and other like structures which do not occupy more than 20% of the lot area; nor to churches or public, agricultural or institutional buildings or private schools not conducted for profit that are primarily used for school purposes, provided the proposed appurtenances are not located within the flight paths of an airport or heliport as defined by FAA regulations and approved by the FAA.
- G. The maximum gross floor area for a commercial establishment in a BC District shall be 10,000 square feet.
- H. Where the existing development along a block amounts to more than 50% of the block frontage, and where said development has an average setback less than required by this chapter, then any vacant lot setback may be reduced to said average of the existing development.
- I. The gross floor area of each one-family detached dwelling and per dwelling unit in a two-family dwelling shall not be less than 768 square feet. The gross floor area in a multifamily shall not be less than 450 square feet for one-bedroom dwelling units, 600 square feet for two-bedroom units and 768 square feet for three-bedroom or larger units.
- J. In all districts the lot width as measured at any point between the front lot line and the rear building line shall not be less than that prescribed in the Table of Dimensional and Density Regulations.
- K. At no street intersection in any district shall any new or replacement organic material, excepting a lawn or ground cover, be planted or permitted to grow, nor any obstruction to vision exceeding the lesser of three feet in height above the plane established by the intersecting streets or 30 inches

above the sidewalk, be placed, nor shall existing organic material be permitted to grow above such height, on any lot within the triangular area formed by the intersecting curbs at a distance of 25 feet from the corner. Where curbs do not exist, measurement shall be made along edge of pavement.

- L. A fence, hedge, wall, sign or other structure or vegetation may be maintained on any lot, provided that in the front yard area no such structure or vegetation shall be over three feet in height above the adjacent ground within five feet of the front lot line unless it can be shown that such vegetation will not restrict visibility in such a way as to hinder the safe entry of a vehicle from any driveway to the street.

(Ord. No. 16985C, 11-27-1972; Ord. No. 18564, 12-2-1974; Ord. No. 20211, 12-18-1978; Ord. No. 1735, 12-7-1989; Ord. No. 95-189, 5-1-1995)

## ARTICLE VII

### Signs

#### § 235-26. Compliance with Building Code required.

All signs shall comply with the regulations for the erection and construction of signs contained in the Building Code of the City of Melrose and other applicable City regulations. No signs shall be permitted except in accordance with the following regulations.

(Ord. No. 16985C, 11-27-1972)

#### § 235-27. General regulations.

- A. Any traffic or directional sign owned and installed by a governmental agency shall be permitted.
- B. Temporary banners for drive-in establishments or automotive establishments shall be permitted except as provided in Subsection D of this section. "Temporary" shall be construed to mean any period not exceeding 30 consecutive days.
- C. Political signs shall be permitted, not exceeding six square feet, and subject to the further provisions of Subsection D of this section.
- D. A sign (including temporary interior window displays or banners) or its illuminator shall not by reason of its location, shape, size or color interfere with traffic or be confused with or obstruct the view or effectiveness of any official traffic sign, traffic signal or traffic marking. A sign or any part thereof which moves or flashes, all of the traveling light or animated type and all beacons and flashing devices are prohibited. All illumination of signs must be so arranged as to prevent glare onto any portion of any public way or into any residential area.
- E. No more than two signs shall be allowed for any one business or industrial establishment in the "B" and "I" districts.
- F. No more than one sign shall be allowed for any one premises in the "R" district.
- G. The limitations as to the number of signs permitted does not apply to traffic or directional signs which are necessary for the safety and direction of residents, employees, customers and

visitors, whether in a vehicle or on foot, of any business, industry or residence. Such signs shall not carry the name of any business or product.

- H. The supporting members for any pole sign, projecting sign or any other sign shall be in acceptable proportion to the size of the sign.
- I. Any sign attached to a building shall not extend above the height of the roof of the building.
- J. No sign shall be erected so as to obstruct any door, window or fire escape on a building.
- K. At the boundary line of the City, and within a street right-of-way, a sign not exceeding five square feet in area indicating the meetings of any Melrose civic organization may be erected only after the granting of a special permit by the Board.

(Ord. No. 16985C, 11-27-1972; Ord. No. 94-368, 10-17-1994)

**§ 235-28. Signs permitted in any residential district.**

- A. One professional nameplate for each medical doctor or dental practitioner, provided such sign shall not exceed one square foot in surface area.
- B. One identification sign for each dwelling unit, provided such sign shall not exceed one square foot in surface area. If lighted, it shall be illuminated with a white, steady, stationary light of reasonable intensity, shaded and directed solely at the sign, not casting light off the premises and not used other than for identifying the occupancy.
- C. One identification sign for each membership club, funeral establish-

ment, hospital, place of public assembly, community facility or public utility use, provided that the sign shall not exceed 10 square feet in surface area. If lighted, it shall be illuminated with a white, steady, stationary light, of reasonable intensity, shielded and directed solely at the sign, not casting light off the premises and set back at least ½ of the required depth of the front yard. For a church, community facility and place of public assembly, one additional sign up to 40 square feet in surface area may be allowed.

- D. One unlighted temporary sign offering premises for sale or lease for each parcel in one ownership, provided that it shall not exceed six square feet in surface area and it shall be set back at least 10 feet from the street lot line.
- E. One unlighted temporary sign of an architect, engineer or contractor erected during the period such person is performing work on the premises on which such sign is erected, provided that it shall not exceed four square feet in surface area and it shall be set back at least 10 feet from the street lot line.

(Ord. No. 16985C, 11-27-1972; Ord. No. 95-189, 5-1-1995)

**§ 235-29. Signs permitted in any business district.**

- A. Signs permitted in § 235-28 are allowed in any "B" district.
- B. Business signs shall be permitted as follows:
  - (1) One wall sign for each lot street frontage of each establishment, provided that it shall be attached and parallel to the main wall of a building, it shall not project

horizontally more than 15 inches therefrom, the surface area of the sign shall not aggregate more than 10% of the area of the wall on which it is displayed or 100 square feet, whichever is the lesser, and, if illuminated, it shall be illuminated externally by steady, stationary, white light, of reasonable intensity, shielded and directed solely at the sign, not casting direct or reflected light off the premises and not used other than for identifying the establishment.

- (2) One pole sign for each street frontage of a drive-in establishment, including automobile service stations, provided that it shall not exceed 40 square feet in surface area, no portion of it shall be set back less than 10 feet from any street lot line, it shall not be erected so that any portion of it is over 15 feet above the ground or sidewalk, and, if lighted, it shall be illuminated internally by white light only.
- (3) One standing sign for each lot street frontage of a business establishment in the BB District, provided that it shall not exceed 100 square feet in surface area on any one side, no portion of it shall be set back less than 10 feet from any street lot line, it shall not rise to more than 15 feet from the ground or sidewalk and it shall be illuminated internally by white or blue light only. Where a single lot is occupied by more than one

business, whether in the same structure or not, there shall not be more than one standing sign.

(Ord. No. 16985C, 11-27-1972; Ord. No. 18565, 12-2-1974; Ord. No. 95-189, 5-1-1995; Ord. No. 06-050, 12-5-2005)

### **§ 235-30. Signs Permitted in the Industrial District.**

Business signs shall be permitted as follows:

- A. One wall sign subject to the regulations set forth in § 235-29 above.
- B. One standing sign or one pole sign for each establishment, provided that it shall not exceed 150 square feet in surface area, it shall be set back at least 15 feet from any street lot line, it shall not be erected so that any portion of it is over 15 feet from any street lot line, it shall not be erected so that any portion of it is over 15 feet above the ground or sidewalk, and, if lighted, it shall be illuminated internally by white light only.

(Ord. No. 16985C, 11-27-1972)

### **§ 235-31. Nonconforming signs.**

Any sign existing at the date of adoption of this chapter but which does not conform to these regulations by reason of its size, location, type or lighting shall either be altered so as to become conforming or removed within five years of the date of adoption of this chapter.

(Ord. No. 16985C, 11-27-1972; Ord. No. 18565, 12-2-1974)

ARTICLE VIII  
Off-Street Parking and Loading

**§ 235-32. Off-street parking requirements.**

After the effective date of this chapter, off-street parking spaces shall be provided for every new structure, the enlargement of an existing structure, the development of a new

land use or any change in an existing use in its entirety in accordance with the Table of Use and Parking Regulations (see Article V), the Table of Off-Street Parking Regulations and other requirements as contained herein. The parking code stipulated in the Table of Use and Parking Regulations shall correspond to the use and space requirements set forth in the Table of Off-Street Parking Regulations as presented in this article.

**Table of Off-Street Parking Regulations**

Parking Code	Use	Number of Off-Street Parking Spaces
A1	Dwelling, single, and single including in-law apartment	2
A2	Dwelling, two-family	4
B	Dwelling, multifamily	2 per dwelling unit, except housing for the elderly, in which case it shall be 1 for each 3 dwelling units
C	Lodging house, dormitory, fraternity, sorority, YMCA, YWCA and similar types of group quarters	1 per rental or sleeping unit; any bedroom or group of 2 beds in a single room constitutes a sleeping unit
D	Theater, restaurant, gymnasium, auditorium or similar place of public assembly with seating facilities	1 for each 4 seats of total seating capacity
E	Automotive retail and service establishment and other retail and service establishments utilizing extensive display areas, either indoor or outdoor, which are unusually extensive in relation to customer traffic	1 per 1,000 square feet of gross floor space; in the case of outdoor display areas, 1 for each 1,000 square feet of lot area in such use
F	Hotel, motel or tourist court	1 for each sleeping room and 1 for each 400 square feet of meeting area and restaurant space

<b>Parking Code</b>	<b>Use</b>	<b>Number of Off-Street Parking Spaces</b>
G	Other retail, service, finance, insurance or real estate establishment or adult use	1 per each 300 square feet of gross floor space
G-1	Medical office (including doctors, dentists and clinics)	1 per each 200 square feet of gross floor area
H	Wholesale establishment, warehouse or storage establishment	1 per each 1,000 square feet of gross floor space
I	Manufacturing or industrial establishment	1 per each 600 square feet of gross floor space or 0.75 per each employee of the combined employment of the 2 largest successive shifts, whichever is larger
J	Hospital	1 per each 600 square feet of gross floor area
K	Nursing home	1 per bed at design capacity
L	Business, trade or industrial school or college; country club	1 for each 200 square feet of gross floor area in classrooms and other teaching stations, plus space for gymnasium or auditorium, whichever has the larger capacity (refer to Code D)
M	Other school	2 per classroom in an elementary and junior high school; 4 per classroom in a senior high school, plus space for auditorium or gymnasium, whichever has the larger capacity (refer to Code D)
N	Community facility (city building, recreation, etc.)	1 per each 400 square feet of gross floor space
O	Public utility	1 for each 400 square feet of gross floor area devoted to office use; 1 for each 800 square feet of gross floor area per other use



Parking Code	Use	Number of Off-Street Parking Spaces
P	Transportation terminal establishment; home occupation	1 for each 600 square feet of gross floor area
Q	Mixed use	Sum of various uses computed separately
R	Any use permitted by this chapter not interpreted to be covered by this schedule	Closest similar use as shall be determined by the Building Commissioner
T	Mixed residential and home occupation use	The applicable residential off-street parking requirement plus 1 for each 600 square feet of gross floor area used for home occupation

(Ord. No. 16985C, 11-27-1972; Ord. No. 18563, 12-2-1974; Ord. No. 20053, 12-18-1978; Ord. No. 1575, 5-4-1987; Ord. No. 95-189, 5-1-1995; Ord. No. 95-189A, 5-1-1995; Ord. No. 97-38, 12-16-1996)

**§ 235-33. Off-street loading requirements.**

The off-street loading and unloading requirements presented in the Table of Off-Street Loading Regulations shall apply to all existing buildings where the use has been

changed to retail and service commercial, wholesale, transportation and industrial and community facility use as specified in the Table of Use and Parking Regulations or to any building hereafter erected for such uses.

**Table of Off-Street Loading Regulations**

Use	Number of Loading Spaces Per Unit
Retail trade, manufacturing and hospital establishment with over 5,000 square feet of gross floor area	1 per 20,000 square feet or fraction thereof of gross floor area up to 2 spaces; 1 additional space for each 60,000 square feet or fraction thereof of gross floor area over 40,000 square feet; space used for ambulance receiving at a hospital is not to be used to meet these loading requirements

Use	Number of Loading Spaces Per Unit
Business services, other services, community facility (school, church, town building, recreation, etc.) or public utility establishment with over 5,000 square feet of gross floor area	1 per 75,000 square feet or fraction thereof of gross floor area up to 2 spaces; 1 additional space for each 200,000 square feet or fraction thereof of gross floor area over 150,000 square feet

(Ord. No. 16985C, 11-27-1972; Ord. No. 95-189, 5-1-1995)

#### § 235-34. Existing spaces.

Parking or loading spaces being maintained in any district in connection with any existing use on the effective date of this chapter, or any spaces subsequently provided in accordance with this chapter, shall not be decreased or in any way removed from service to the use originally intended to be served so long as said use remains, unless a number of parking or loading spaces is constructed elsewhere such that the total number of spaces conforms to the requirements of the tables of this article, provided that this regulation shall not require the maintenance of more parking or loading spaces than is required according to the tables.

(Ord. No. 16985C, 11-27-1972)

approval by the Building Commissioner, where it is evident that such facilities will continue to be available for the several buildings or uses.

(Ord. No. 16985C, 11-27-1972)

#### § 235-37. Continuance.

Required off-street parking or loading spaces which after development are later designated as, and accepted by the City for, off-street parking or loading purposes shall continue to serve the uses or structures to meet these requirements so long as said use or structure remains.

(Ord. No. 16985C, 11-27-1972)

#### § 235-35. Computation of spaces.

When the computation of required parking or loading spaces results in the requirement of a fractional space, any fraction of  $\frac{1}{2}$  or more shall require one space.

(Ord. No. 16985C, 11-27-1972)

#### § 235-38. Location of parking spaces.

- A. Required off-street parking spaces shall be provided on the same lot as the principal use they are required to serve or, when practical difficulties as determined by the Board of Appeals prevent their establishment upon the same lot, they shall be established no further than 300 feet from the premises to which they are appurtenant. No required off-street parking spaces shall be located within the required front yard area in any

#### § 235-36. Combined facilities.

Parking required for two or more buildings or uses may be provided in combined facilities on the same or adjacent lots, subject to

district, except for one-family dwellings.

- B. In no instance may the open space required for a lot be used for the provision of off-street parking spaces.

(Ord. No. 16985C, 11-27-1972; Ord. No. 95-189, 5-1-1995; Ord. No. 07-044A, 8-23-2007)

#### § 235-39. Location of loading spaces.

The loading spaces required for the uses listed in the Table of Off-Street Loading Regulations shall in all cases be on the same lot as the use they are intended to serve. In no case shall the required loading spaces be part of the area used to satisfy the parking requirements of this chapter.

(Ord. No. 16985C, 11-27-1972)

#### § 235-40. Municipal parking lots.

- A. The Board by special exception may allow the substitution of spaces within municipal parking lots in lieu of the parking requirements of this article, provided they are located within 1,000 feet of the building which is intended to be served.
- B. Any structures on lots recorded prior to January 1, 1980, abutting municipal parking lots located in the area bounded northerly by Essex and Upham Streets, southerly by Grove Street, easterly by the boundary of the BA-1 District between Grove Street and Upham Street and westerly by Myrtle Street are permitted the use of said lots without the requirement of a special exception.

(Ord. No. 16985C, 11-27-1972; Ord. No. 20550, 5-19-1980; Ord. No. 90-211, 8-20-1990; Ord. No. 93-112A, 1-4-1993)

#### § 235-41. Parking and loading space standards.

All parking and loading areas, either contained within structures or otherwise, including automotive and drive-in establishments of all types, shall be subject to the following where applicable:

- A. The area shall be effectively screened with suitable planting or fencing on each side which adjoins or faces the side or rear lot line of a lot situated in any "R" district.
- B. The area and access driveways thereto shall be surfaced with bituminous or cement concrete material and shall be graded and drained so as to dispose of all surface water accumulation in accordance with acceptable engineering practices. The location of spaces shall be suitably marked by painted lines or other appropriate markings. Driveways and contiguous parking areas in residential districts shall be surfaced with pervious material systems that utilize porous pavement, pavers, brick or other materials in accordance with acceptable engineering practices or bituminous or cement concrete.
- C. A substantial bumper of masonry, steel or heavy timber or a concrete curb or berm curb which is backed shall be placed at the edge of surfaced areas except driveways in order to protect abutting structures, properties and sidewalks and screening materials.
- D. The layout of the parking area shall allow sufficient space for the storage of plowed snow unless removal by some other means is assured.
- E. Any fixture used to illuminate any area shall be so arranged as to direct the light away from the street and

away from adjoining premises used for residential purposes.

- F. There shall not be any business operation for vehicle repair for profit or gasoline or oil service facilities or any repair made to any motor vehicles, except on a lot occupied by a permitted automotive use. Any gasoline or oil facilities shall be at least 25 feet from any lot line.
- G. There shall not be any storage of materials or equipment or display of merchandise within a required parking area except as part of approved building operations.
- H. Parking shall not be located within the required front yard area in any district.
- I. Parking and loading spaces other than those required for single- and two-family dwellings shall be so arranged as not to permit backing of vehicles onto any street.
- J. Any portion of any entrance or exit driveway shall not be closer than 50 feet to the curbline of an intersecting street.
- K. Any two driveways leading to or from a street, to or from a single lot, shall not be within 30 feet of each other at their intersections with the front lot line for an interior lot and 40 feet for a corner lot.
- L. Any entrance or exit driveway shall not exceed 24 feet in width at its intersection with the front lot line except for automotive service stations and fire stations, in which cases the width may be increased to 40 feet. Driveways in residential districts shall not exceed 20 feet in width.

M. The Board may grant a special exception to permit the reduction of the parking space requirements to 80% of that required in the Table of Off-Street Parking Regulations where conditions unique to the use will reasonably justify such a reduction.

N. Each off-street parking space shall not be less than nine feet in width and 18 feet in length for angle parking or 22 feet in length for parallel parking, exclusive of drives, walks and maneuvering space.

O. Each off-street parking space shall have direct access to an aisle or driveway having a minimum width of 24 feet in the case of two-way traffic or the following widths in the case of one-way traffic only:

Angle of Parking	Minimum Aisle Width (feet)
Parallel	12
30°	11
45°	13
60°	18
90°	20

(Ord. No. 16985C, 11-27-1972; Ord. No. 2111, 10-16-1989; Ord. No. 95-189, 5-1-1995; Ord. No. 07-044A, 8-23-2007)

#### § 235-42. Parking of commercial vehicles.

The parking of a commercial vehicle with a registered gross weight in excess of 10,000 pounds shall be prohibited in any residential district.

(Ord. No. 16985C, 11-27-1972; Ord. No. 07-132, 5-7-2007)

ARTICLE IX  
Nonconforming Uses,  
Structures and Lots

**§ 235-43. Applicability.**

The provisions of this article apply to actions in connection with nonconforming uses, structures and lots created by the initial enactment of this chapter or by any subsequent amendment. It is the purpose of this chapter to discourage the perpetuity of nonconforming uses whenever possible. The lawful use of any building or land existing at the time of the enactment of this chapter may be continued, except as otherwise provided.

(Ord. No. 16985C, 11-27-1972)

**§ 235-44. Extension and alteration.**

- A. Any nonconforming use, except for agriculture, horticulture or floriculture, of any open space on a lot outside a structure or of a lot not occupied by a structure shall not be extended.
- B. Any nonconforming principal use of a structure shall not be extended.
- C. Any nonconforming accessory use of a portion of a structure or any conforming accessory use of a portion of a nonconforming structure may be extended up to a maximum of 40% of the existing structure.
- D. Any existing structure on a nonconforming lot may be altered and the conforming use extended throughout the altered portion, provided that any resultant alteration shall not cause the structure to violate the dimensional and density regulations of the district in which it is located.
- E. Any existing nonconforming building used as a one- or two-family dwelling may be extended and the conforming use extended throughout the extended

portion, notwithstanding that the extended portion may violate the side or rear yard requirements, provided that said extended portion follows the line of the existing building and is not less than 7½ feet from each lot line.

- F. Any nonconforming structure or portion thereof which has come into conformity shall not again become nonconforming.
- G. Any extension or alteration to an existing nonconforming building used as a one- or two-family dwelling shall be allowed as a matter of right, provided that the extension or alteration is consistent with and does not violate the dimensional and density regulations of the district in which it is located.

(Ord. No. 16985C, 11-27-1972; Ord. No. 18053, 8-6-1973; Ord. No. 957, 2-19-1985; Ord. No. 95-189, 5-1-1995)

**§ 235-45. Residential lot of record.**

Any lot lawfully laid out by plan or deed duly recorded, or any lot shown on a plan endorsed by the Planning Board with the words "approval under the Subdivision Control Law not required," or words of similar import, which complies (at the time of recording or such endorsement, whichever is earlier) with the minimum area, frontage, width and depth requirements, if any, of the zoning ordinance then in effect may be built upon for residential use provided it has a minimum area of 5,000 square feet, with a minimum front footage of 50 feet, and is otherwise in accordance with the provisions of Section 6 of the Zoning Act.

(Ord. No. 16985C, 11-27-1972)

**§ 235-46. Reduction or increase.**

- A. Any nonconforming lot or open space on the lot, including yards and setbacks, if already smaller than that required shall not be further reduced

so as to be in greater nonconformity. The Board, however, may grant a special permit to extend a conforming use so as to violate or further violate the side or rear yard requirements.

- B. No building area or floor area, where already nonconforming, shall be increased so as to be in greater nonconformity.
- C. Any off-street parking or loading spaces, if already equal to or fewer than the number required to serve their intended use, shall not be further reduced in number.

(Ord. No. 16985C, 11-27-1972)

**§ 235-47. Change of use or lot.**

- A. Any nonconforming use of a structure may be changed to another nonconforming use provided the changed use is not a substantially different use as determined by the Building Commissioner.
- B. Any nonconforming use which has been once changed to a permitted use or to another nonconforming use which is not a substantially different use shall not again be changed to another nonconforming use.
- C. Any nonconforming lot which has come into conformity shall not again be changed to a nonconforming lot.

(Ord. No. 16985C, 11-27-1972)

**§ 235-48. Restoration.**

- A. Any nonconforming structure or any structure occupied by a nonconforming use which is totally destroyed by fire or other natural

cause may be rebuilt on its original foundation according to original floor area limitations and used for its original use. Otherwise it shall not be rebuilt except in accordance with the use, dimensional and density regulations of this chapter. Historical buildings may be exempt by special exception of the Board of Appeals.

- B. Any nonconforming structure or any structure occupied by a nonconforming use which is damaged by fire or other natural cause may be repaired or rebuilt according to the dimensions and floor area limitations of the original structure and used for its original use or a conforming use.
- C. If restoration under Subsection B above is not started within one year of the cause of the damage, the repaired structure shall not be used except for a conforming use.

(Ord. No. 16985C, 11-27-1972)

**§ 235-49. Abandonment.**

- A. Any nonconforming use of a conforming structure and lot which has been abandoned for a continuous period of two years or more shall not be used again except for a conforming use. For agriculture, horticulture or floriculture, the abandonment period shall be five years.
- B. For purposes of this section, the abandonment period shall not be broken by temporary occupancy except when such temporary occupancy is for a period of 60 consecutive days.

(Ord. No. 16985C, 11-27-1972)

**§ 235-50. Moving nonconforming structures.**

Any nonconforming structure shall not be removed to any other location on the lot or any other lot unless every portion of such structure, the use thereof and the lot shall be conforming.

(Ord. No. 16985C, 11-27-1972)

**§ 235-51. Unsafe structures.**

Except as covered under §§ 235-48 and 235-49, any structure determined to be unsafe may be restored to a safe condition, provided such work on any nonconforming structure shall be completed within one year of the determination that the structure is unsafe and it shall not place the structure in greater nonconformity and provided, further, if the cost to restore any structure shall exceed 50% of its replacement value, it shall be reconstructed only as a conforming structure and used only for a conforming use.

(Ord. No. 16985C, 11-27-1972)

**ARTICLE X****Administration and Enforcement****§ 235-52. Administrative officer.**

It shall be the duty of the Building Commissioner to administer and enforce the provisions of this chapter.

(Ord. No. 16985C, 11-27-1972)

**§ 235-53. Building permit required; application procedure.**

- A. It shall be unlawful for any owner or person to erect, construct, reconstruct or alter a structure or change the use

or lot coverage, increase the intensity of use or extend or displace the use of any building, other structure or lot without applying for and receiving from the Building Commissioner the required building permit therefor. For purposes of administration, such permit and application procedure involving a structure may be made at the same time and combined with the permit required under the Building Code.

- B. An application for any permit shall be accompanied by a plan, accurately drawn, showing the actual shape and dimensions of the lot to be built upon, the exact location and size of all buildings or structures already on the lot, the location of new buildings or structures to be constructed, together with the lines within which all buildings or structures are to be erected, the existing and intended use of each building or structure and such other information as may be necessary to provide for the execution and enforcement of this chapter. A record of all applications, plans and permits shall be kept on file by the Building Commissioner. The Building Commissioner shall take action on an application for a permit, either granting the permit or disapproving the application, within 14 days of receipt of the application.

(Ord. No. 16985C, 11-27-1972)

**§ 235-54. Previously approved permits.**

The status of previously approved permits shall be as determined by the Zoning Act, Section 6.

(Ord. No. 16985C, 11-27-1972)

**§ 235-55. Certificate of occupancy required.**

- A. It shall be unlawful to use or occupy any structure or lot hereafter erected or altered unless the Building Commissioner has issued a certificate of occupancy and has specified thereon the use to which the structure or lot may be put. Applications for certificates of occupancy and compliance shall be filed coincident with the application for building permits and shall be issued or refused in writing for cause within five days after the Building Commissioner has been notified, in writing, that the erection or alteration of such buildings has been completed. A record of all certificates shall be kept on file in the office of the Building Commissioner. Buildings accessory to dwellings when completed at the same time shall not require a separate certificate of occupancy.
- B. Pending the issuance of a regular certificate, a temporary certificate may be issued for a period not exceeding six months during the completion of alterations or during partial occupancy of a building, pending its completion. No temporary certificate shall be issued prior to its completion if the building fails to conform to the provisions of the building ordinances and state laws or of this chapter to such a degree as to render it unsafe for the occupancy proposed.

(Ord. No. 16985C, 11-27-1972)

**§ 235-56. (Reserved)<sup>1</sup>****§ 235-57. Permit time limits.**

Any work for which any permit has been issued by the Building Commissioner shall be actively prosecuted within 90 days and completed within one year of the date of the issuance of the permit. Any permit issued for a project which is actively prosecuted for one year may be extended for an additional year at the discretion of the Building Commissioner. Additional time extensions may be granted only by a special permit approved by the Board of Appeals. Any project not completed within the applicable time limits shall be in violation of this chapter.

(Ord. No. 16985C, 11-27-1972)

**§ 235-58. Notice of violation and order.**

- A. The Building Commissioner shall serve a notice of violation and order to any owner or person responsible for the erection, construction, reconstruction, conversion or alteration of a structure or change in use, increase in intensity of use or extension or displacement of use of any structure or lot in violation of the provisions of this chapter or in violation of any approved plan, information or drawing pertinent thereto or in violation of a permit or certificate issued under the provisions of this chapter or in violation of any provision of this chapter, and such order shall direct the discontinuance of the unlawful action, use or condition and the abatement of the violation

<sup>1</sup> Editor's Note: Former § 235-56, Permit and certificate fees, as amended, was repealed 6-21-2004 by Ord. No. 04-239. See now § 24-34.



within a time to be specified by the Building Commissioner.

- B. Any owner who having been served with a notice and who ceases any work or other activity shall not leave any structure or lot in such condition as to be a hazard or menace to the public safety, health, morals or general welfare.
- C. If the Building Commissioner is requested in writing to enforce this chapter against any person allegedly in violation of the same and such officer declines to act, the Building Commissioner shall notify, in writing, the party requesting such enforcement of any action or refusal to act and the reasons therefor within 14 days of receipt of such request.

(Ord. No. 16985C, 11-27-1972)

#### § 235-59. Violations and penalties.<sup>2</sup>

If the notice of violation and order is not complied with promptly, the Mayor shall institute the appropriate action or proceeding at law or in equity to prevent any unlawful action, use or condition and to restrain, correct or abate such violation. Penalties for violations may, upon conviction, be affixed in an amount not to exceed \$50 for each offense. Each day, or portion of a day, that any violation is allowed to continue shall constitute a separate offense.

(Ord. No. 16985C, 11-27-1972)

#### § 235-60. Board of Appeals.

- A. Establishment of Board of Appeals.  
The Board of Appeals shall be the Board of Appeals established under

Chapter 22 of the Revised Ordinances of the City of Melrose 1956, as last amended.<sup>3</sup>

#### B. Powers.

- (1) Under this chapter the Board shall have the following powers:
  - (a) To hear and decide appeals in accordance with Section 8 of the Zoning Act.
  - (b) Except as provided in § 235-61B, to hear and decide applications for special permits and conditions and to impose conditions thereon.
  - (c) To authorize upon appeal, or upon petition in cases where a particular use is sought for which no permit is required, with respect to a particular parcel of land or to an existing building thereon a variance from the terms of this chapter.
- (2) In exercising the powers under Subsection B(1)(c) above the Board may impose limitations both of time and use, and a continuation of the use permitted may be conditioned upon compliance with regulations to be made and amended from time to time hereafter.
- (3) In exercising these powers, the Board may, in conformity with the provisions of this chapter and the Zoning Act, reverse or affirm, in whole or in part, or may modify any order or decision and may make such order or decision as ought to be made and to that end shall have all the powers of the

<sup>2</sup> Editor's Note: See also Ch. 1, § 1-21, Noncriminal disposition.

<sup>3</sup> Editor's Note: See Ch. 15, Art. I, Board of Appeals.

officer from whom the appeal is taken and may issue or direct the issuance of a permit.

C. Board of Appeals procedures.

(1) Appeals.

- (a) An appeal to the Board may be taken by any person aggrieved by reason of his/her inability to obtain a permit from this chapter, by the Metropolitan Area Planning Agency or by any person, including an officer or board of the City or of an abutting City or town, aggrieved by an

order or decision of the Building Commissioner or other administrative official in violation of any provision of this chapter.

- (b) Any such appeal shall be taken within 30 days from the date of the order or decision which is being appealed by filing a notice of appeal, specifying the ground thereof, with the City Clerk who shall forthwith transmit copies thereof to such officer or board whose order or

(Cont'd on page 23537)



decision is being appealed and to the members of the Board. Such officer or board shall forthwith transmit to the Board of Appeals all documents and papers constituting the record of the case in which the appeal is taken.

- (2) Meetings of the Board shall be held at the call of the Chair or when called in such other manner as the Board shall determine in its rules.
- (3) The Board of Appeals shall hold a hearing on any appeal, application or petition transmitted to it by the City Clerk within 65 days from the date of filing with the City Clerk of such appeal, application or petition.
  - (a) The Board shall cause notice of such hearing to be published and sent to parties in interest as provided for herein and shall notify the Planning Board and the planning boards of adjacent cities and towns, which may forward recommendations with respect to said matter for the consideration of the Board of Appeals.
  - (b) In all cases where notice of a public hearing is required, notice shall be given by publication in a newspaper of general circulation in the city or town once in each of two successive weeks, the first publication to be not less than 14 days before the day of the hearing, and by

posting such notice in a conspicuous place in City Hall for a period of not less than 14 days before the day of the hearing.

- (c) "Parties in interest" as used herein shall mean the petitioner, abutters, owners of land directly opposite on any public or private street or way and owners of land within 300 feet of the property line, all as they appear on the most recent applicable tax list, notwithstanding that the land of any such owner is located in another city or town. The Assessors maintaining any applicable tax list shall certify to the Board of Appeals the names and addresses of parties in interest, and such certification shall be conclusive for all purposes. The Board of Appeals may accept a waiver of notice from, or in his/her stead any successor owner of record<sup>4</sup> who may not have received a notice by mail and may order special notice to any such person, giving not less than five nor more than 10 additional days to reply.
- (d) Publications and notices required by this section shall contain the name of the petitioner, a description of the area or premises,

<sup>4</sup> Editor's Note: So in original. See MGL c. 40A, § 11, which reads "a waiver of notice from, or an affidavit of actual notice to any party in interest, or in his stead any successor owner of record."

street address, if any, or other adequate identification of the location, of the area or premises which is the subject of the petition, the date and place of the public hearing, the subject matter of the hearing and the nature of action or relief requested, if any. No such hearing shall be held on any day on which a state or municipal election caucus or primary is held in such city. The Board of Appeals shall notify the Planning Board and the planning boards of every adjacent city or town, which may forward recommendations with respect to said matter for the consideration of the Board of Appeals. At the hearing, any party, entitled to notice thereof or not, may appear in person, by agent or by attorney.

- (e) The Chair of the Board or, in his/her absence, the Acting Chair may administer oaths, summon witnesses and call for the production of papers. All hearings of the Board shall be open to the public.
- (4) The decision of the Board on any appeal or application for a variance shall be made within 100 days after the date of the filing of such appeal or application. The decision on any petition for special permit shall be made within 90 days after the public hearing thereon. Failure of the Board to act within said

time constraints shall be deemed to be the grant of the relief, application, appeal or petition, as the case may be, subject to an additional judicial appeal as provided for in the Zoning Act.

- (a) The Board shall cause to be made a detailed record of its proceedings, indicating the vote of each member upon each question or, if absent or failing to vote, indicating such fact and setting forth clearly the reason or reasons for its decision and of its official actions, copies of all of which shall be filed within 14 days in the office of the City Clerk and shall be a public record, and notice of the decision shall be mailed forthwith to the petitioner, applicant or appellant, to the parties in interest as defined in Subsection C(3)(c) above and to every person present at the hearing who requested that notice be sent to him/her and stated the address to which such notice was to be sent. Each notice shall specify that appeals, if any, shall be made pursuant to Section 17 of the Zoning Act and shall be filed within 20 days after the date of filing of such notice in the office of the City Clerk.
- (b) Upon the granting of a variance or special permit or any extension, modification or renewal thereof, the Board shall issue to the owner, and to the applicant if other than the owner, a

copy of the decision, certified by the Chair or Clerk, containing the name and address of the owner, identifying the land affected, setting forth compliance with the statutory requirements for the issuance of such variance or permit and certifying that copies of the decision and all plans referred to in the decision have been filed with the Planning Board and City Clerk. No variance or special permit, or any extension, modification or renewal thereof, shall take effect until a copy of the decision bearing the certification of the City Clerk that 20 days have elapsed and no appeal has been filed or, if such appeal has been filed, that it has been dismissed or denied is recorded in the Middlesex County Registry of Deeds and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The fee for recording or registering shall be paid by the owner or applicant.

- (c) If the rights authorized by a variance are not exercised within one year of the date of grant of such variance such rights shall lapse; provided, however, that the Board of Appeals in its discretion and upon written application by the grantee of

such rights may extend the time for exercise of such rights for a period not to exceed six months; and provided, further, that the application for such extension is filed with such Board prior to the expiration of the one-year period. If the Board of Appeals does not grant such extension within 30 days of the date of application therefor, and upon the expiration of the original one-year period, such rights may be reestablished only after notice and a new hearing pursuant to the provisions of this chapter and MGL c. 40A, § 10.

- (5) No appeal, application or petition which has been unfavorably and finally acted upon by the Board shall be acted favorably upon within two years after the date of final unfavorable action unless said Board finds, by a concurring vote of all except one member of the Board, specific and material changes in the record of its proceedings<sup>5</sup> and unless all but one of the members of the Planning Board consent thereto and after notice is given to parties in interest of the time and place of the proceedings when the question of such consent will be considered.

<sup>5</sup> Editor's Note: So in original. See MGL c. 40A, § 16, which reads "specific and material changes in the conditions upon which the previous unfavorable action was based, and describes such changes in the record of its proceedings."

- (6) Any person aggrieved by a decision of the Board of Appeals or any special permit granting authority, whether or not previously a party to the proceedings, or any municipal officer or board may appeal to the Superior Court or to the Land Court or to the District Court as provided in MGL c. 40A, § 17, by bringing an action within 20 days after the decision has been filed in the office of the City Clerk. Notice of the action with a copy of the complaint shall be given to such City Clerk so as to be received within such 20 days. The complaint shall allege that the decision exceeds the authority of the Board or authority and any facts pertinent to the issue and shall contain a prayer that the decision be annulled. There shall be attached to the complaint a copy of the decision appealed from, bearing the date of filing thereof, certified by the office of the City Clerk with whom the decision was filed.
- (7) The city may provide any officer or board of the city with independent legal counsel for appealing, as provided in this section, a decision of the Board of Appeals or special permit granting authority and for taking such other subsequent action as parties are authorized to take.
- D. Adoption of rules. The Board shall adopt rules for conducting its business and otherwise carrying out the purposes of this chapter. A copy of such rules shall be filed in the office of the City Clerk. Meetings of

the Board shall be held at the call of the Chair and also when called in such other manner as the Board shall determine in its rules.

- E. Other requirements. The granting of any appeal by the Board shall not exempt the applicant from any provision of this chapter not specifically ruled upon by the Board or specifically set forth as excepted in this particular case from a provision of this chapter. It shall be unlawful for any owner or person to reconstruct, convert or alter a structure or change the use, increase the intensity of use or extend or displace the use of any building, other structure or lot or change any required limitations or special conditions imposed by the Board in authorizing a special permit or variance without appealing to the Board as a new case over which the Board shall have complete administrative power to deny, approve or modify.

(Ord. No. 16985C, 11-27-1972; Ord. No. 95-189, 5-1-1995; Ord. No. 02-066C, 2-19-2002)

## ARTICLE XI

### Special Permits and Conditions

#### § 235-61. Special permit granting authorities.

- A. The Board of Appeals, upon written application duly made to the Board, may grant special permits as hereinafter prescribed. Said special permits may be issued only for uses which are in harmony with the general purpose and intent of this chapter and shall be subject to general and specific provisions

hereinafter stated, and such permits may also impose conditions, safeguards and limitations on time or use.

- (1) Special permits as prescribed in § 235-63 in locations and for uses designated "S" in Article V, Table of Use and Parking Regulations, and special permits or conditions allowed elsewhere in this chapter.
  - (2) Variances from the terms of this chapter as prescribed in § 235-64.
  - (3) Special permits for uses accessory to activities permitted as a matter of right, which activities are necessary in connection with scientific research or scientific development or related production, whether or not on the same parcel as activities permitted as a matter of right, provided that the Board of Appeals find that the proposed accessory use does not substantially derogate from the public good.
- B. The Planning Board, upon written application, may grant special permits as hereinafter prescribed.
- (1) Special permits as prescribed in § 235-65 for multifamily residential use in nonresidentially zoned areas.
  - (2) Special permits designated as design review permits as prescribed in § 235-66.
  - (3) Special permits providing for cluster developments as prescribed in § 235-67.
  - (4) Special permits providing for planned unit developments and

planned business developments as prescribed in § 235-68 through 235-71.

- (5) Special permits under the affordable housing incentive program prescribed in § 235-73.1 of this chapter.
- C. Special permits under slope protection prescribed in § 235-73.2 of this chapter.

(Ord. No. 16985C, 11-27-1972; Ord. No. 04-184A, 8-9-2004; Ord. No. 06-017, 12-19-2005)

#### § 235-62. Special permit procedure.

- A. Application. Applications shall be filed with the City Clerk, and a copy of said application, including the date and time of filing certified by the City Clerk, shall be filed forthwith by the petitioner with the special permit granting authority indicated heretofore. The application shall be filed on such forms and with such accompanying materials and in such manner as prescribed in the rules of the special permit granting authority placed on file with the City Clerk by said special permit granting authority.
- B. Public hearing. A public hearing shall be conducted by the special permit granting authority within 65 days of the filing of an application. The time and place of said hearing shall be fixed by the special permit granting authority, which will give notice, and said notice shall include the name of the petitioner, a description of the area or premises, the street address, if any, or other adequate identification of the area or premises which is the subject of the hearing, the date, time and



place of the hearing, the subject matter sufficient for identification and the nature of the action or relief requested.

- C. Notice. Notice of the public hearing shall appear in a newspaper of general circulation in the City. The first notice shall appear at least 14 days before the scheduled hearing date, and the second notice shall appear in the following week. In addition, notice of the hearing shall be posted in a conspicuous place in City Hall for 14 days prior to the scheduled hearing. Mail notice is required to be sent to abutters as they appear on the most recent tax list of Melrose and of adjoining cities and towns if applicable, to owners of land directly opposite on any public or private street or way as they appear on the most recent tax list, to owners of land within 300 feet of the property line, to the Melrose Planning Board and to the planning boards of adjoining cities and towns.
- D. Record. The public hearing shall be open to the public and shall be conducted in a manner consistent with rules published by the special permit granting authority. The special permit granting authority shall cause to be made a detailed record of its proceedings and shall include in the vote of each member on each question, including whether absent or not voting. The record shall state in detail the reasons for the decisions made and shall record any limitations or conditions, if any. A copy of the record shall be filed with the City Clerk within 14 days of the decision.
- E. Decision. The decision must be made within 90 days after the date of the public hearing, and failure to take

final action upon an application for a special permit within 90 days following the date of the public hearing shall be deemed to be a grant of the permit applied for. A notice of the decision shall be mailed to the petitioner, abutters, owners of land directly opposite on any public or private street or way, owners of land within 300 feet of property line, even if in adjoining cities or towns, the Melrose Planning Board, the planning boards of adjoining cities or towns and to persons present at the hearing so requesting notice of the decision. Notice of the decision shall inform recipients of appellate rights under Section 14 of the Zoning Act.

- F. Vote. A concurring vote of all but one of the members of the Board of Appeals is required to grant a special permit or variance by said Board, and two-thirds concurring vote of the Planning Board is required to grant a special permit by said Board.
- G. Certification and recording of special permit or variance. Any special permit or variance granted by a special permit granting authority shall be certified by said authority and show the name and address of the landowner or applicant if other than the owner. The notice of special permit shall identify the land affected, set forth compliance with statutory prerequisites and state that a special permit has been granted and certify that copies of the decision and all plans referred to in the decision have been filed with the City Clerk and the Planning Board. No variance or special permit, or any extension, modification or renewal thereof, shall take effect until a copy of the decision bearing the certification of the City Clerk that 20 days have elapsed and no appeal has

been filed or, if such appeal has been filed, that it has been dismissed or denied is recorded in the Registry of Deeds with the date and time of such

recording and indexed in the grantor index under the name of the owner of

(Cont'd on page 23543)



record or is recorded and noted on the owner's certificate of title. A special permit granted under this chapter shall lapse in two years, which shall not include such time required to pursue or await the determination of an appeal, from the grant thereof, if a substantial use thereof has not sooner commenced except for good cause or, in the case of permit for construction, if construction has not begun by such date except for good cause.

- H. Reconsideration of unfavorable action. Reconsideration of unfavorable action of a special permit granting authority shall be made pursuant to Section 16 of the Zoning Act and as noted in § 235-60C of this chapter.
- I. Appeal. Appeal from the decision of a special permit granting authority shall be made only pursuant to Section 17 of the Zoning Act and as noted in § 235-60C of this chapter.
- J. Conclusive nature of grant of special permit. Notwithstanding defect in notice, appeal in accordance with Section 17 of the Zoning Act shall constitute the exclusive remedy for complaint against the granting of a special permit. In the case of defect in notice, complaint must be commenced within 90 days from the time the decision is filed in the City Clerk's office.

(Ord. No. 16985C, 11-27-1972; Ord. No. 95-189, 5-1-1995; Ord. No. 02-066C, 2-19-2002)

**§ 235-63. Findings by special permit granting authority; conditions.**

- A. Before granting an application for a special permit, as allowed in § 235-61, the special permit granting authority, with due regard to the nature and condition of all adjacent structures and uses and the district within which the same is located, shall find all of the following general conditions to be fulfilled:
  - (1) The use requested is listed in the Table of Use and Parking Regulations as a special permit in the district for which application is made or is so designated elsewhere in this chapter.
  - (2) The requested use is essential or desirable to the public convenience or welfare.
  - (3) The requested use will not create undue traffic congestion or unduly impair pedestrian safety.
  - (4) The requested use will not overload any public water, drainage or sewer system or any other municipal system to such an extent that the requested use or any developed use in the immediate area or in any other area of the city will be unduly subjected to hazards affecting health, safety or the general welfare.
  - (5) Any special regulations for the use set forth in this article are fulfilled.
  - (6) The requested use will not impair the integrity or character of the district or adjoining

districts nor be detrimental to the health, morals or welfare.

- B. The special permit granting authority shall also impose, in addition to any applicable conditions specified in this chapter, such additional conditions as it finds reasonably appropriate to safeguard the neighborhood or otherwise serve the purposes of this chapter, including but not limited to the following: front, side or rear yards greater than the minimum required by this chapter; screening buffers or planting strips, fences or walls as specified by the special permit granting authority; modification of the exterior appearance of the structures; limitation upon the size, number of occupants, method and time of operation, time duration of permit or extent of facilities; and regulation of number and location of driveways or other traffic features beyond the minimum required by this chapter. Such conditions shall be imposed in writing, and the applicant may be required to post bond or other security for compliance with said conditions in an amount satisfactory to the special permit granting authority.
- C. In order that the special permit granting authority may determine that the above-mentioned restrictions are to be met, a site plan or revised site plan shall be submitted, in duplicate, to the special permit granting authority by the applicant. Said site plan shall show, among other things, all existing and proposed buildings, structures, parking spaces, driveway openings, driveways, service areas and other open uses, all facilities for sewage, refuse and other waste disposal and

for surface water drainage and all landscape features, such as fences, walls, planting areas and walks. The special permit granting authority shall, within 10 days after receipt thereof, transmit one copy of such plan to the Planning Board or, in the case where the Planning Board is the special permit granting authority, to the Board of Appeals. Said Board may, in its discretion, investigate the case and report in writing its recommendation to the special permit granting authority.

- D. The special permit granting authority shall not take final action on said plan until it has received a report thereon from the Planning Board (or from the Board of Appeals where the Planning Board is the special permit granting authority) or until said Planning Board (or Board of Appeals) has allowed 35 days to elapse after receipt of such plan without submission of a report thereon.

(Ord. No. 16985C, 11-27-1972; Ord. No. 1650, 5-4-1987)

#### § 235-64. Variances.

- A. As allowed in § 235-61A, the Board may authorize a variance for a particular use or parcel of land or to an existing building thereon from the terms of this chapter where, owing to conditions especially affecting such parcel or such building but not affecting generally the district in which it is located, a literal enforcement of the provisions of this chapter would involve substantial hardship, financial or otherwise, to the appellant and where desirable relief may be granted without

substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of this chapter.

B. Before any variance is granted, the Board must find all of the following conditions to be present:

- (1) Conditions and circumstances are unique to the applicant's lot, structure or building and do not apply to the neighboring lands, structures or buildings in the same district.
- (2) Strict application of the provisions of this chapter would deprive the applicant of reasonable use of the lot, structure or building in a manner equivalent to the use permitted to be made by owners of their neighborhood lands, structures or buildings in the same district.
- (3) The unique conditions and circumstances are not the result of actions of the applicant taken subsequent to the adoption of this chapter.
- (4) Relief, if approved, will not cause substantial detriment to the public good or impair the purpose and intent of this chapter.
- (5) Relief, if approved, will not constitute a grant of special privilege inconsistent with the limitations upon other properties in the district.

(Ord. No. 16985C, 11-27-1972)

**§ 235-65. Multifamily residential use in nonresidentially zoned areas**

**authorized by Planning Board.**

- A. General. Said permits may be authorized where the public good would be served after a finding by the Planning Board that such nonresidentially zoned area would not be adversely affected by such a residential use and that permitted uses in such a zone are not noxious to a multifamily use.
- B. Location. Special permits for multifamily residential use may be applied for only within the BA-1 and BB-1 Zones.
- C. Dimensional and density regulations. Under separate application, said permit may be applied for in conjunction with a design review permit. Otherwise all other provisions of this chapter shall apply.

(Ord. No. 16985C, 11-27-1972)

**§ 235-66. Design review permits authorized by Planning Board.**

- A. General. The Planning Board, as the special permit granting authority, may authorize a special permit designated a "design review permit" to increase the permissible density of population or intensity of a particular use in a proposed development, provided that the petitioner or applicant shall, as a condition for the grant of said permit, provide certain open space, housing for persons of low or moderate income, traffic or pedestrian improvements or other amenities.
- B. Conditions. Conditions for the grant of said permit shall include at least one of the following:

- (1) Provision of open space in such amount and in such manner as the Planning Board shall require, which may include the preservation of open space through placing of parking within or under the building, also including the preservation of open space in its natural state, insofar as practicable, the minimizing of tree and soil removal and the maintenance of change of grade in keeping with the general appearance of neighboring developed areas or, in areas where changes are required, the provision of landscaping of parking areas and of the site.
  - (2) Provisions of housing for persons of low or moderate income, as defined by the Federal Housing Authority, where such housing constitutes at least 10% of the dwelling units.
  - (3) Provision of such traffic or pedestrian improvements as the Planning Board may require, including optimum size and placement of entrances, ramps, walkways, drives, parking and especially the location and number of access points to public streets. Additionally, consideration shall be given to the width of interior drives and access points, general interior circulation, separation of pedestrian and vehicular traffic, arrangement of parking areas and the protection of neighboring properties.
  - (4) Provision of other amenities as the Planning Board may require, including the arrangement or rearrangement of the building on the site, the massing of the building in relation to surrounding properties and the protection of the city's heritage through preservation of historic, traditional or significant uses or structures, whether these exist on the site or on adjacent properties.
- C. Location. Said design review permits may be applied for only in UR-D, BA-1 and BB-1 Zones as located on the Zoning Map.
- D. Maximum design review permit increases.
- (1) UR-D Zone and BB-1 Zone:
    - (a) Lots under 20,000 square feet: not applicable.
    - (b) Lots 20,000 to 30,000 square feet: Article VI dimensional and density regulations for UR-C Districts shall apply, with the exception of minimum lot area per dwelling unit and maximum stories, which shall be as determined by the Planning Board, but not exceeding a floor area ratio of 1.5 and further not exceeding a height of 62 feet.
    - (c) Lots over 30,000 square feet: Article VI dimensional and density regulations for UR-C Districts shall apply, with the exception of minimum lot area per dwelling unit and maximum stories, which shall be as determined by the Planning Board, but not exceeding a floor area ratio of 1.75 and

further not exceeding a height of 80 feet.

(2) BA-1 Zone:

- (a) Lots under 20,000 square feet: not applicable.
- (b) Lots 20,000 square feet to 50,000 square feet: Article VI dimensional and density regulations for UR-C Districts shall apply, with the exception of minimum lot area per dwelling unit and maximum stories, which shall be as determined by the Planning Board, but not exceeding a floor area ratio of 2.0 and further not exceeding a height of 80 feet.
- (c) Lots over 50,000 square feet: Article VI dimensional and density regulations for UR-C Districts shall apply, with the exception of minimum lot area per dwelling unit and maximum stories, which shall be as determined by the Planning Board, but not exceeding a floor area ratio of 3.0 and further not exceeding a height of 80 feet.

(Ord. No. 16985C, 11-27-1972)

**§ 235-67. Cluster residential development.**

For single-family residential development in a cluster pattern in the SR, SR-A and SR-B Districts, subject to dimensional and density regulation less than the minimum required for development of an individual lot in the same district, the following conditions shall apply:

- A. The tract of land in a single or consolidated ownership at the time of application shall be at least 15 acres in size and the plan of which shall be subject to approval by the Planning Board under the Melrose Land Subdivision Regulations.
- B. A site plan shall be presented to the Planning Board for the entire tract.
- C. Each individual lot in the SR, SR-A and SR-B Districts shall be subject to all requirements for a one-family detached dwelling in the UR-A District.
- D. The total number of proposed lots in the development within the SR District shall not exceed the number of lots which could be developed under normal application requirements of the SR District. The total number of proposed lots in the development within the SR-A District shall not exceed the number of lots which could be developed under normal application requirements of the SR-A District. The total number of proposed lots in the development within the SR-B District shall not exceed the number of lots which could be developed under normal application of the requirements of the SR-B District. For purposes of this subsection, it shall be assured that a maximum of 80% of the total tract area could be utilized to meet lot area requirements.
- E. The proposed plan shall be in accordance with the Melrose Future Land Use Plan as last revised.
- F. The development shall be served by both public water and public sewerage systems.
- G. The minimum open space requirement shall be 50% of the total



tract area. A portion of the open space land, amounting to at least 10% of the total tract area, shall be set aside as common land covenanted to be maintained as permanent open space in private or cooperative ownership. The form of covenant covering such common land shall provide for its permanent ownership and maintenance and shall be subject to the approval of the Planning Board and the City Solicitor. (With the consent of the Aldermen this common land may be deeded to the city). This common land shall be of such a physical character and appropriately planned so as to be of use to the residents of the cluster development.

- H. Such common land shall be deeded to the city or permanently covenanted simultaneously with the Planning Board's approval of the definitive subdivision plan.
- I. Such common land shall be restricted to open space recreational uses, such as tot-lot, park, playground, play field, golf course or conservation area.
- J. Such common land shall have suitable access to a street.

(Ord. No. 16985C, 11-27-1972; Ord. No. 18566, 12-2-1974)

#### § 235-68. Planned unit development in the SR-A District.

For development in a planned unit concept in the SR-A District for uses including, among others, residential, business and institutional and not subject to the Table of Dimensional and Density Regulations, the following conditions shall apply:

- A. The tract shall be in single or consolidated ownership, and the plan

for the tract shall be subject to the approval by the Planning Board under the Melrose Land Subdivision Regulations. The tract shall be at least 30 contiguous acres, which may be intersected by a street or streets.

- B. The development may be totally new development or it may incorporate existing development either in its present form or as altered through rehabilitation.
- C. The following uses shall be permitted: residential, including townhouses and multifamily dwellings; community facilities (religious or educational; membership club for exclusive use of the residents of the planned unit development; public recreation or open space; fire station); public transportation terminal facility; and business establishments selling convenience goods such as food, drugs and proprietary goods; general merchandise such as dry goods, apparel and accessories, hardware, home furnishings and similar items; personal and consumer services establishments; and medical, other professional and business offices, including financial, insurance and real estate offices.
- D. A maximum of 5% of the total residential gross floor area at any one time may be devoted to business gross floor area.
- E. The minimum open space requirements shall be as follows: percent of total tract area: 60%; percent of developed area: 20%. A portion of the open space land, amounting to at least 10% of the total tract area, shall be set aside as common land covenanted to be maintained as permanent open space

in private or cooperative ownership. The form of covenant covering such common land shall provide for its permanent ownership and maintenance and shall be subject to the approval of the Planning Board and the City Solicitor (with the consent of the Aldermen, this common land may be deeded to the city). This common land shall be of such a physical character and appropriately planned so as to be of use to the residents and patrons of the development.

- F. The remaining land area may be developed for residential, community facilities and business uses. In considering the application, the Planning Board should determine the need for sites for community facilities such as schools, playgrounds, fire stations and the like. Where such a need is found, appropriate sites within the development shall be set aside.
- G. The residential density shall not exceed 20 dwelling units per acre of the total tract area.
- H. The locations of buildings shall be governed by the following:
  - (1) All buildings shall be at least one foot from any lot line for each foot of building height, but in no case shall any building be closer than 15 feet to any lot line.
  - (2) All principal buildings shall be at least 24 feet apart, except that where building heights exceed 40 feet, these distances shall be increased by one foot for each foot of height over 40 feet.
- (3) All principal buildings shall be at least 15 feet from any common parking area.
- I. Buildings of greater height than eight stories may be allowed only as long as the minimum distances required in Subsection H(1) and (2) above are increased by one foot for each two feet of height over 80 feet.
- J. The development shall be served by both public water and public sewerage systems.
- K. The principal streets shall be offered for acceptance as public ways. Where retained as private ways, they shall be posted as such by standard street signs.
- L. A location plan at a scale of one inch equals 650 feet shall be submitted.
- M. A site plan for the entire tract at a scale of one inch equals 40 feet, prepared by a recognized land planner, registered architect or registered professional engineer, shall be submitted to the Planning Board in duplicate and shall show, in addition to other items as may be required by the Planning Board, at least the following:
  - (1) Two-foot contours on the tract and within 50 feet thereof.
  - (2) The location and acreage of areas to be devoted to specific uses.
  - (3) Existing and proposed streets, parking, drainage and utility systems.
  - (4) Proposed residential density of development in terms of dwelling units per acre and type and proposed business uses in square footage and types.

(5) A separate plan showing the location of parks, open recreation areas and other open spaces, schools and other public community uses.

(6) A plan for landscaping, including existing natural features and proposed landscaping, prepared by a registered landscape architect.

N. The development plan shall be consistent with the Melrose Future Land Use Plan as last revised.

O. Signs shall be governed by the regulations of Article VII as applied to the use in the planned unit development, except that projecting signs shall not be permitted.

(Ord. No. 16985C, 11-27-1972)

**§ 235-69. Planned unit development in the UR-B, UR-C and UR-D Districts.**

For development in a planned unit concept in the UR-B, UR-C and UR-D Districts for uses including, among others, residential, business and institutional and not subject to the Table of Dimensional and Density Regulations, the following conditions shall apply:

A. The tract shall be in single or consolidated ownership, and the plan for the tract shall be subject to the approval by the Planning Board under the Melrose Land Subdivision Regulations. The tract shall be at least five contiguous acres, which may be intersected by a street or streets.

B. The development may be totally new development or it may incorporate existing development either in its

present form or as altered through rehabilitation.

C. The following uses shall be permitted: residential, including townhouses and multifamily dwellings; community facilities (religious or educational; membership club for exclusive use of the residents of the planned unit development; public recreation or open space; fire station); public transportation terminal facility; and business establishments limited to the following business uses: retail establishments selling convenience goods such as food, drugs and proprietary goods; general merchandise such as dry goods, apparel and accessories, hardware, home furnishings and similar items; personal and consumer services establishments; and medical, other professional and business offices, including financial, insurance and real estate offices.

D. A maximum of 5% of the total residential gross floor area at any one time may be devoted to business floor area.

E. For a planned unit development where the tract includes land in both the residential districts and the business districts under § 235-70, the proportion of any type of development at any one time shall be computed by applying the limits of Subsection D above to that portion of the total tract in the residential district and by applying the limits of § 235-70D to that portion of the total tract in the business district. However, the location of each type of use shall not be restricted by the zoning boundary.

F. The minimum open space requirements shall be as follows:

percent of total tract area: 20%; percent of developed area: 10%. A portion of the open space land, amounting to at least 10% of the total tract area, shall be set aside as common land covenanted to be maintained as permanent open space in private or cooperative ownership. The form of covenant covering such common land shall provide for its permanent ownership and maintenance and shall be subject to the approval of the Planning Board and the City Solicitor (with the consent of the Aldermen, this common land may be deeded to the city). This common land shall be of such a physical character and appropriately planned so as to be of use to the residents and patrons of the development.

- G. The remaining land area may be developed for residential, community facilities and business uses. In considering the application, the Planning Board should determine the need for sites for community facilities such as schools, playgrounds, fire stations and the like. Where such a need is found, appropriate sites within the development shall be set aside.
- H. The residential density shall not exceed 60 dwelling units per acre of the total tract area.
- I. The locations of buildings shall be governed by the following:
  - (1) All buildings shall be at least one foot from any lot line for each foot of building height, but in no case shall any building be closer than 15 feet.
  - (2) All principal buildings shall be at least 24 feet apart, except that

where building heights exceed 40 feet, these distances shall be increased by one foot of height over 40 feet.

- (3) All principal buildings shall be at least 15 feet from any common parking area.
- J. Buildings of greater height than eight stories may be allowed only as long as the minimum distances required in Subsection I(1) and (2) above are increased by one foot for each two feet of height over 80 feet.
- K. The development shall be served by both public water and public sewerage systems.
- L. The principal streets shall be offered for acceptance as public ways. Where retained as private ways, they shall be posted as such by standard street signs.
- M. A location plan at a scale of one inch equals 650 feet shall be submitted.
- N. A site plan for the entire tract at a scale of one inch equals 40 feet, prepared by a recognized land planner, registered architect or registered professional engineer, shall be submitted to the Planning Board in duplicate and shall show, in addition to other items as may be required by the Planning Board, at least the following:
  - (1) Two-foot contours on the tract and within 50 feet thereof.
  - (2) The location and acreage of areas to be devoted to specific uses.
  - (3) Existing and proposed streets, parking, drainage and utility systems.

- (4) Proposed residential density of development in terms of dwelling units per acre and type and proposed business uses in square footage and types.
- (5) A separate plan showing the location of parks, open recreation areas and other open spaces, schools and other public community uses.
- (6) A plan for landscaping, including existing natural features and proposed landscaping, prepared by a registered landscape architect.
- O. The development plan shall be consistent with the Melrose Future Land Use Plan as last revised.
- P. The off-street parking requirements may be reduced where a common parking area(s) serves a cluster(s) of business development. However, reduction in parking space requirements shall not exceed more than 10% of those required under normal application of the requirements set forth elsewhere in this chapter.<sup>6</sup>
- Q. Signs shall be governed by the regulations of Article VII as applied to the use in the planned unit development, except that projecting signs shall not be permitted.

(Ord. No. 16985C, 11-27-1972)

**§ 235-70. Planned unit development in the BA, BA-1, BB, BB-1, BC and BD Districts.**

For development in a planned unit concept in the BA, BA-1, BB, BB-1, BC and BD Districts for uses including, among others, residential, business and institutional and not subject to the Table of Dimensional and Density Regulations, the following conditions shall apply:

- A. The tract shall be in single or consolidated ownership, and the plan for the tract shall be subject to the approval by the Planning Board under the Melrose Land Subdivision Regulations. The tract shall be at least five contiguous acres, which may be intersected by a street or streets.
- B. The development may be totally new development or it may incorporate existing development either in its present form or as altered through rehabilitation.
- C. The following uses shall be permitted: residential, including townhouses and multifamily dwellings; community facilities (religious or educational; membership club for exclusive use of the residents of the planned unit development; public recreation or open space; fire station); public transportation terminal facility; and business establishments limited to the following business uses: retail establishments selling convenience goods such as food, drugs and proprietary goods; general merchandise such as dry goods, apparel and accessories, hardware, home furnishings and similar items; personal and consumer services establishments; and medical, other professional and business offices,

<sup>6</sup> Editor's Note: See Art. VIII, Off-Street Parking and Loading.

including financial, insurance and real estate offices.

- D. A maximum of 20% of the total land area at any one time may be devoted to residential use.
- E. For a planned unit development where the tract includes land in both business districts and the residential districts under § 235-69, the proportion of any type of development at any one time shall be computed by applying the limits of Subsection D above to that portion of the total tract in the business district and by applying the limits of § 235-69D to that portion of the total tract in the residential district. However, the location of each type of use shall not be restricted by the zoning district boundary.
- F. The minimum open space requirements shall be as follows: percent of total tract area: 10%; percent of developed area: 5%. A portion of the open space land, amounting to at least 10% of the total tract area, shall be set aside as common land covenanted to be maintained as permanent open space in private or cooperative ownership. The form of covenant covering such common land shall provide for its permanent ownership and maintenance and shall be subject to the approval of the Planning Board and the City Solicitor (with the consent of the Aldermen this common land may be deeded to the city). This common land shall be of such a physical character and appropriately planned so as to be of use to the residents and patrons of the development.
- G. The remaining land area may be developed for residential, community

facilities and business uses. In considering the application, the Planning Board should determine the need for sites for community facilities such as schools, playgrounds, fire stations and the like. Where such a need is found, appropriate sites within the development shall be set aside.

- H. The residential density shall not exceed 60 dwelling units per acre of the portion of the total land area devoted to residential use.
- I. The locations of buildings shall be governed by the following:
  - (1) All buildings shall be at least one foot from any lot line for each foot of building height, but in no case shall any building be closer than 15 feet.
  - (2) All principal buildings shall be at least 24 feet apart, except that where building heights exceed 40 feet, these distances shall be increased by one foot for each foot of height over 40 feet.
  - (3) All principal buildings shall be at least 15 feet from any common parking area.
- J. Buildings of greater height than eight stories may be allowed only as long as the minimum distances required in Subsection I(1) and (2) above are increased by one foot for each two feet of height over 80 feet.
- K. The development shall be served by both public water and public sewerage systems.
- L. The principal streets shall be offered for acceptance as public ways. Where retained as private ways, they shall be posted as such by standard street signs.

- M. A location plan at a scale of one inch equals 650 feet shall be submitted.
- N. A site plan for the entire tract at a scale of one inch equals 40 feet, prepared by a recognized land planner, registered architect or registered professional engineer, shall be submitted to the Planning Board in duplicate and shall show, in addition to other items as may be required by the Planning Board, at least the following:
  - (1) Two-foot contours on the tract and within 50 feet thereof.
  - (2) The location and acreage of areas to be devoted to specific uses.
  - (3) Existing and proposed streets, parking, drainage and utility systems.
  - (4) Proposed residential density of development in terms of dwelling units per acre and type and proposed business uses in square footage and types.
  - (5) A separate plan showing the location of parks, open recreation areas and other open spaces, schools and other public community uses.
  - (6) A plan for landscaping, including existing natural features and proposed landscaping, prepared by a registered landscape architect.
- O. The development plan shall be consistent with the Melrose Future Land Use Plan as last revised.
- P. The off-street parking requirements may be reduced where a common parking area(s) serves a cluster(s) of business development. However,

reduction in parking space requirements shall not exceed more than 10% of those required under normal application of the requirements set forth elsewhere in this chapter.<sup>7</sup>

- Q. Signs shall be governed by the regulations of Article VII as applied to the use in the planned unit development, except that projecting signs shall not be permitted.

(Ord. No. 16985C, 11-27-1972)

#### **§ 235-71. Planned business development.**

For the planned business development of land in the BA, BA-1, BB, BB-1, BC, BD, UR-C and UR-D Districts, the development shall be subject to all regulations of this chapter, except that the following shall be allowed through grant of a special permit for the planned business development by the Planning Board: building coverage greater than the maximum building coverage permitted in the Table of Density and Dimensional Regulations, parking requirements less than the parking requirements contained in Article VIII and additional uses as provided for below, provided that:

- A. The tract in single or consolidated ownership at the time of application shall be at least three contiguous acres in size. A development plan shall be presented for the entire tract.
- B. Regardless of the zone in which a planned business development is located, all of the uses listed in the Table of Use and Parking Regulations

<sup>7</sup> Editor's Note: See Art. VIII, Off-Street Parking and Loading.

in Article V under the categories "community facilities," "retail service commercial," "wholesale, transportation and industrial" and "accessory use" shall be permitted in a planned business development provided the specific uses are approved by the Planning Board when the development plan for the planned business development is approved.

- C. Uses may be contained in one continuous building or in groupings of buildings. The Planning Board shall review the site plan with respect to safety of the users of the development and further with respect to the overall intent of this section. The development of one continuous building or the development of a grouping of buildings may be served by one common parking area and by common exit and entrance areas, in which case a reduction in the parking area may be allowed.
- D. The minimum open space requirement shall be 5%.
- E. As part of the approval of any planned business development, the Planning Board shall review plans and may issue a special permit for accessory parking for compliance with Article VIII of this chapter. Where conditions unique to a planned business development so justify, the Planning Board may grant a maximum of a ten-percent reduction of the parking space requirements indicated in the Table of Off-Street Parking Regulations.
- F. A site plan shall be presented for the entire tract showing two-foot finished contours, existing and proposed drainage, sewerage, water, parking and street access. A separate plan for landscaping shall be presented.

- G. The development plan shall be consistent with the Melrose Future Land Use Plan as last revised.
- H. The development shall be served by both public water and public sewerage systems, both of which must be adequate to accept the proposed development.
- I. Signs shall be governed by the regulations of Article VII, except that projecting signs shall not be permitted.
- J. The plan shall provide for adequate access in relation to the anticipated traffic generation by the proposed development.
- K. The plan shall be evaluated with respect to its impact upon the neighborhood, its effect on City services such as fire protection and its overall demands on the City. The design of each building in a planned business development shall be reviewed and approved by the Planning Board to ensure that it is reasonably appropriate in relation to the approved plan.

(Ord. No. 16985C, 11-27-1972; Ord. No. 1650, 5-4-1987)

#### § 235-71.1. Smart Growth District.

- A. Purpose. The purposes of the Smart Growth District are:
  - (1) To promote economic development and neighborhood revitalization through the redevelopment and reuse of industrial buildings and related sites;
  - (2) To provide housing options which are sufficient to meet the needs of



households at varying income levels and different stages of life;

- (3) To promote high-quality, sustainable design that reinforces and enhances neighborhood identity and minimizes negative impacts on the environment;
- (4) To create a pedestrian-friendly environment that promotes walking, bicycling and transit use, and encourages reduced vehicle ownership; and
- (5) To promote a mix of compatible uses.

**B. Definition and applicability.**

- (1) A Smart Growth District Project (SGD Project) is a development that complies with all the provisions of this § 235-71.1, including provisions relating to uses, density, site and building dimensions, off-street parking, building design, lighting, and signs.
- (2) This § 235-71.1 includes use, dimensional and other regulations that may modify the requirements of the underlying district(s) for an SGD project. Any requirement of the Zoning Ordinance that is not specifically modified by this § 235-71.1 shall remain in effect for an SGD project.
- (3) The provisions of this § 235-71.1 shall apply only to an SGD project. Any building, structure or use of land that is not part of an SGD project shall conform to the regulations and requirements applicable to the underlying districts without modification by this § 235-71.1.

- (4) An SGD project shall be subject to site plan review under § 235-16.1. Site plan review approval for an SGD project is contingent upon the Planning Board, acting as the Site Plan Review Committee, finding that the requirements of this § 235-71.1 are met in addition to the site plan review criteria described in § 235-16.1.

**C. Establishment of Smart Growth District.**

- (1) The Smart Growth District (SGD) is established as an overlay district that may be applied to land in the Industrial-A District as described herein, which is referred to herein as the "underlying district." When a parcel is placed within the SGD, it also remains in the underlying Industrial-A District, and must comply with the regulations of the Industrial-A District except as specifically modified by this § 235-71.1.
- (2) The Smart Growth District includes the following parcels, identified by Assessors Map and lot numbers as of January 1, 2007:

<b>Map</b>	<b>Lots</b>
B1	5
B2	16-18, 17, 19, 20, 21, 35, 36, 37
B3	57, 58, 58A, and the private way known as "Stone Place"

This list of parcels is intended to include all properties shown on the Melrose Zoning Map as the Industrial-A District located on lower Washington Street.

**D. Permitted uses.**

- (1) An SGD project may include, and shall be limited to, the following permitted uses, alone or in combination:
    - (a) Multifamily residential, including townhouses and apartment buildings and including accessory uses thereto;
    - (b) Retail establishments selling convenience goods, such as food, drugs and proprietary goods, or general merchandise, such as dry goods, apparel and accessories, hardware, home furnishings and similar items, provided that no individual establishment, except such businesses in existence in the Industrial-A District at the time of the effective date of this § 235-71.1, shall exceed 15,000 square feet gross floor area;
    - (c) Personal and consumer services establishments, including beauty and barber shops, clothing rental, dry cleaning pickup shops, garment repair, tailors, and similar businesses providing frequent or recurrent services related to personal needs, and including accessory retail sales of products related to the services offered at such consumer services establishments;
    - (d) Professional and business offices, including, but not limited to, medical, legal, insurance, architects, engineers, and real estate offices;
    - (e) Banks and financial institutions;
    - (f) Restaurants, coffee shops, and similar establishments selling prepared food to be consumed on or off site;
    - (g) Studios of artists or artisans, including persons engaged in the application, teaching, or performance of fine arts, such as, but not limited to, drawing or painting, sculpture, vocal or instrumental music, or writing; and including the accessory sale of art produced on the premises;
    - (h) Live/work space, combining a dwelling unit with an integrated work space principally used by one or more of the residents of the unit.
  - (2) An SGD project may include more than one principal structure on a single lot, provided that the Planning Board finds through the site plan review process that safe and convenient access will be provided to all structures.
  - (3) An SGD project shall not include any use which consists of drive-through service, whereby a product or service is provided to a person who remains in a vehicle.
- E. Dimensional and density regulations.
- (1) Lot area and frontage. An SGD project shall have a minimum lot area of one-half (.5) acres and a minimum frontage on a public way of at least 100 feet.

## (2) Yards.

(a) Minimum yards: Each lot within the SGD project shall comply with the following requirements:

[1] Minimum front yard: 15 feet from the lot line.

[2] Minimum side yard: 12 feet from the lot line.

[3] Minimum rear yard:

[a] Abutting a residential zoning district: 20 feet from the lot line.

[b] Not abutting a residential zoning district: 15 feet from the lot line.

(b) Maximum front yard:

[1] In order to define a consistent building line along the street, new buildings shall not be set back more than 20 feet from the front property line.

[2] The maximum front yard may be increased to 30 feet, provided that the additional yard area incorporates a courtyard or sitting area at least 1,500 square feet in area and at least 20 feet deep that adjoins and is open on one or more sides to the public sidewalk; is open to the public for exclusive use by pedestrians; contains pedestrian amenities such as seating; and is

landscaped to create a separation from the street, to provide shade, to reduce noise, and to mitigate fumes.

[3] At least 60% of the front side of a lot facing a public street, measured in percentage of linear feet of the frontage, shall be occupied by buildings or open space.

(c) The Planning Board may require, on the basis of site plan review, an accessway to improve pedestrian circulation and for public safety access.

(3) Building separation. Buildings on a single lot shall be at least 18 feet apart to provide adequate separation for emergency access.

(4) Development intensity.

(a) The maximum residential density of an SGD project shall be 35 dwelling units per acre.

(b) The maximum floor area ratio (FAR) of an SGD project shall be 1.25, plus 0.05 for each 1.0% of total floor area devoted to commercial uses, but shall not exceed a maximum FAR of 2.0.

(5) Open space.

(a) An SGD project shall include open space at least equal to the percentage of total lot area as set forth below:

[1] An SGD project that involves only the rehabilitation of an SGD

landmark building, as defined in § 235-71.1, Subsection G(2), provided that there is no increase in the footprint of the building and the gross floor area is increased by no more than 50%: 10%.

- [2] An SGD project that involves the rehabilitation of an SGD landmark building, regardless of increase in footprint or floor area, and may include new construction: 25%.
- [3] Any other SGD project: 35%.
- (b) The open space requirement shall apply to the SGD project as a whole, regardless of whether the SGD project consists of a single lot or multiple lots.
- (c) In recognition of the increased open space and recreation demands that will result from new residential development, an SGD project shall also contribute to the city's off-site public open space as follows:
  - [1] Upon receiving a building permit for any residential units in an SGD project, the applicant shall make a contribution to the city's Open Space Fund in the amount of \$1,100 per dwelling unit.
  - [2] The Open Space Fund contribution per dwelling

unit shall be decreased by 5% for each 1% by which the open space on the lot exceeds the minimum requirement stipulated in Subsection E(5)(a).

(6) Building and structure height.

- (a) The maximum permitted height for buildings in an SGD project shall be 60 feet, except as follows:
  - [1] No part of a building that is less than 40 feet from a front lot line shall exceed a height of 50 feet.
  - [2] No part of a building that is less than 40 feet from a side lot line abutting a residential district shall exceed a height of 50 feet.
  - [3] No part of a building that is less than 50 feet from the rear lot line abutting a residential district shall exceed 40 feet. No part of a building that is less than 100 feet from a rear lot line abutting a residential district shall exceed a height of 50 feet.
  - [4] No part of a building shall have a height that is greater than its distance to the front lot line of any residentially zoned property on the opposite side of the street, less 25 feet. [For example, if the street

right-of-way is 45 feet and the building in an SGD project is set back 15 feet from the property line, the maximum height at that point shall be  $(45+15)-25 = 35$  feet.]

- (b) The height of a building or structure in the SGD shall be defined as the vertical distance from the average grade of Washington Street, along the frontage of the lot/s of the SGD project at the time of the site plan review application, to the top of the structure of the highest roof beams of a flat roof, the deck of a mansard roof or the mean level of the highest gable or slope of a hip roof. This shall supersede the definition of "height" in § 235-5 for an SGD project.
- (c) A roof appurtenance enclosing mechanical equipment may exceed the applicable maximum building height established by Subsection E(6)(a) above provided that 1) it is no more than 10 feet above the roof surface, 2) it is no less than 10 feet from the exterior wall of the building, and 3) the total horizontal area of all such appurtenances does not exceed 20% of the building footprint.
- (d) Parking structures not integrated into a building primarily for human occupation shall be no more

than 28 feet in height to the deck of the highest parking area.

- (7) Building coverage. The maximum permitted coverage by all buildings in an SGD project shall be 50%. This requirement shall apply to the SGD project as a whole, regardless of whether the SGD project consists of a single lot or multiple lots.
- (8) Existing nonconforming buildings. An SGD project may include a building in existence on the effective date of this § 235-71.1 which does not conform to the requirements set forth in § 235-71.1E relating to minimum or maximum front yard, minimum side yard, maximum building height, or minimum building separation. No change shall be made to lot lines, building footprint or building height that further increases any such nonconformity unless the Planning Board determines, based on site plan review, that such change is necessary for structural or access reasons or to meet the design standards of this section.

F. Off-street parking.

- (1) Off-street parking spaces shall be provided as follows:

Use	Spaces Required
Residential	1.0 per studio or one-bedroom dwelling unit
	1.5 per two-bedroom dwelling unit
	2.0 per three-bedroom dwelling unit
	1.0 visitor space per
	10 residential units

## Office and retail

Ground floor	1.0 per 350 sq. ft. gross floor area
Floors above ground level	1.0 per 500 sq. ft. gross floor area

(2) Notwithstanding § 235-73.1C(1), the overall off-street parking requirement (total parking spaces divided by total dwelling units) may be less than 1.5 per unit but shall not be less than 1.25 per unit.

(3) On-street parking on public streets and internal ways may be permitted within the Smart Growth District, provided that all necessary approvals are obtained, but on-street parking on public streets shall not be used to meet the minimum requirements for off street parking.

(4) The Planning Board may allow shared reduced parking requirements for uses having different peak times of parking demand requirements, as determined based on the report of a traffic engineer engaged by the applicant and approved by the Planning Board as part of site plan review. Where shared parking is to serve uses on separate lots, documentation shall be provided establishing the permanent legal right for such shared use.

(5) Parking setbacks:

(a) Surface parking areas shall conform to the following minimum setback requirements:

[1] From a public street: 30 feet.

[2] From an internal way (not to include parking lot drive aisles): 10 feet.

[3] From a structure: 10 feet

[4] From a side or rear lot line where the abutting property is within the SG District notwithstanding any other setback provision within this Subsection A(5)(a): five feet.

[5] From a lot line abutting the railroad right-of-way: five feet.

[6] From any other side or rear lot line: 10 feet.

(b) Parking structures shall conform to the following minimum setback requirements:

[1] From an internal way: 10 feet.

[2] From a public street: 30 feet.

[3] From a side lot line: 12 feet.

[4] From a rear lot line:

[a] Abutting a residential zoning district: 20 feet.

[b] Not abutting a residential zoning district: 15 feet.

(c) No surface parking area or parking structure shall be closer to a public street than the closest principal building.

(d) The provisions of Subsection F(5)(a), (b), and (c) above

shall not apply to SGD projects that are limited to the rehabilitation of a building or buildings in existence at the time of adoption of this amendment and that do not include the construction of new buildings.

- (6) Bicycle parking facilities or storage shall be provided as follows, assuming one space accommodates one bicycle:

Use	Bicycle Parking Required
Residential	1.0 space per 20 dwelling units
Office	2.0 spaces per 10,000 sq. ft. gross floor area
Retail	2.0 spaces per 10,000 sq. ft. gross floor area

G. Design standards. All SGD projects shall comply with the following design standards, unless the Planning Board finds, through site plan review, any standard to be inappropriate for the proposed use.

(1) Building design.

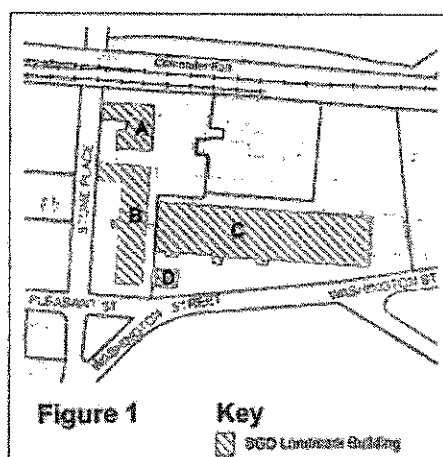
- (a) New buildings shall be designed to be compatible with SGD landmark buildings, as defined in Subsection G(2) herein, in terms of their massing, size, scale, and architectural features.
- (b) Exterior materials that are primarily associated with domestic residential buildings, such as wood clapboards and shingles, or that are relatively impermanent, such as exterior insulation and finish systems (EIFS), plywood,

aluminum and vinyl, are discouraged.

- (c) Building facades shall articulate the line between the ground and upper levels with a cornice, canopy, balcony, arcade, or other visual device.
- (d) Building facades facing public streets or Stone Place, or within 30 feet of main entrances, shall reflect a high level of detail refinement.
- (e) Building facades more than 50 feet in length shall be divided into shorter segments by means of changes in materials, varying rooflines or other architectural treatments.
- (f) Rooftop building systems, such as mechanical and electrical equipment and antennas, shall be screened with appropriate architectural elements from all key observation points.
- (g) New buildings and renovations shall incorporate sustainable design and construction practices as governed by the Energy Star Program to the extent reasonable; and developers are strongly encouraged to receive US Green Building Council LEED Rating for their building.
- (h) For new buildings containing commercial uses, at least 60% of the street-facing building facade between two feet and eight feet in height shall be comprised of clear windows

that allow views of indoor space or product display areas. This requirement shall not apply to buildings accessory to residential uses and not open to the general public, such as clubhouses.

- (i) Buildings or building facades shall not be designed primarily according to themes or architectural styles defined by or associated with corporate chains or franchises. The Planning Board may prohibit designs that it finds to be inconsistent with this provision.
- (2) Historic preservation.
  - (a) The following buildings or portions of buildings, identified in Figure 1, are designated "SGD Landmark Buildings":
    - A – 78 Stone Place
    - B – 111 Washington Street/72 Stone Place
    - C – 99 Washington Street
    - D – 99B Washington Street



- (b) No SGD landmark building shall be demolished.
- (c) Any alteration or addition to a SGD landmark building shall not modify its architectural features in such a way as to impair or detract from the building's historic character.
- (d) The Planning Board may prohibit alterations or additions to SGD landmark buildings that it finds to be materially inconsistent with this provision.
- (3) Landscaping.
  - (a) Landscape materials shall be sustainable, requiring minimal maintenance, irrigation or fertilizer, and shall be planted with species that are native to the area, tolerant of salt, and capable of withstanding extreme weather conditions.
  - (b) Street trees shall be planted by the developer along all public streets and internal ways within and abutting the property.

- [1] Trees shall be planted at intervals of no more than 40 feet along both sides of the roadway. If the Planning Board determines through site plan review that such spacing is not feasible, it may alter the spacing or determine that up to the equivalent number of trees shall be planted elsewhere on the site.



- [2] Trees shall be of a species common to the area, and shall be appropriate species to provide summer shade, winter light, and year-round visual interest.
  - [3] Trees shall be 2 1/2 inches in caliper at four feet above grade, and reach a height of at least 30 feet at maturity.
  - (c) All dumpsters and utility/service areas shall be screened with adequate plantings and/or landscape structures appropriate to the scale and character of the neighborhood.
  - (d) A landscaped buffer strip at least 10 feet in width shall be provided along any lot line that abuts a residential zoning district. The buffer strip shall contain a vegetative screen not less than three feet wide and six feet high relative to the lot line, designed and maintained to provide a dense screen year-round. The screen shall be planted with trees or shrubs no more than three feet on center. At least 50% of the plantings shall consist of evergreens, distributed along the length of the buffer strip.
- (4) General site design.
- (a) Roadways, sidewalks and other infrastructure shall be designed in accordance with the City of Melrose's Subdivision Regulations, and with the additional standards set forth below.
  - (b) Sidewalks, crosswalks, walkways, or other pedestrian access shall be provided to allow for safe and convenient access to adjacent properties and between individual buildings, parking areas and other points of interest within a development. Sidewalks and walkways shall be constructed of cementitious concrete and shall be minimally broken by vehicular access.
  - (c) Pedestrian amenities, such as benches, planters, trash receptacles, walkways and gardens, etc., shall be provided along the sidewalks of public streets and in open space plazas.
  - (d) All utilities servicing an SGD project shall be placed underground, unless prohibited by a utility company. All utilities on new internal roadways servicing an SGD project shall be placed underground. All utility and drainage requirements shall be approved as part of the site plan review process and not subject to any other sections of the Zoning Ordinance.
  - (e) Off-street parking and loading spaces, internal ways, and maneuvering areas shall be designed to provide for adequate drainage, snow storage and removal,

maneuverability and curb cuts.

- (f) Granite curbing shall be used along all roads and private internal ways. Cementitious concrete curbing may be substituted for granite curbing in all other locations.
  - (g) The number of driveway curb cuts along Washington and Pleasant Streets shall be kept to a minimum.
  - (h) Driveways shall be consolidated and aligned with existing intersections as feasible.
  - (i) Appropriate traffic control devices, including signage, shall be installed at driveways.
  - (j) Adequate sight distance shall be provided at driveways.
- (5) Parking.
- (a) Surface lots shall be screened along all public streets by a landscaped buffer not less than six feet in depth, or by walls or fencing at least three feet high and compatible with the adjacent architecture, and shall be designed to ensure that lights from cars within the surface lots do not spill into adjacent streets and properties. These provisions shall not apply to SGD projects that are limited to the rehabilitation of a building or buildings in existence at the time of the effective date of this § 235-71.1 and do not include

the construction of new buildings.

- (b) Parking structures and lots shall have well-designed and marked pedestrian walkways and connections to the sidewalk system.
  - (c) Parking structures shall be designed to be compatible with adjacent buildings and architecture. All structured parking shall be designed so that the only openings at street level are those to accommodate vehicle ingress and egress and pedestrian access to the building. All openings shall be designed so that vehicles are not visible from the sidewalk on a public street.
- (6) Site lighting.
- (a) Broad area lighting shall be avoided.
  - (b) Parking lot pole lighting shall not exceed a height of 18 feet.
  - (c) Lighting shall be installed along roadways, driveways, pedestrian walkways and sidewalks.
  - (d) Lighting shall not create overspill onto adjacent properties or into the night sky and shall meet the following requirements:
    - [1] Any luminaire with a lamp or lamps rated at a total of more than 1,800 lumens (and any flood or spot luminaires of more than 900 lumens) shall be of fully shielded (cutoff) design and shall

not emit any direct light above a horizontal plane passing through the lowest part of the light-emitting luminaire.

- [2] Luminaires, regardless of lumen rating, shall be equipped with whatever additional shielding, lenses, or cutoff devices are required to eliminate light trespass onto any abutting lot or parcel and to eliminate glare perceptible to persons on abutting land.
- [3] Building facades may be illuminated with soft lighting of low intensity that does not draw attention to the building. The light source for the building facade illumination shall be concealed. Building entrances may be illuminated using recessed lighting in overhangs and soffits, or by use of spotlighting focused on the building entrances with the light source concealed (e.g., in landscaped areas). Direct lighting of limited exterior building areas is permitted when necessary for security purposes.
- [4] A flood or spot luminaire with a lamp or lamps rated at 900 lumens or less may be used without restriction to light distribution, provided

that it is aimed, directed, or focused so as not to cause direct light from the luminaire to be directed toward buildings on adjacent or nearby land, or to create glare perceptible to persons operating motor vehicles on public ways.

- (e) Lamp type shall be selected to provide a natural uniform quality of light, rather than a strong color, such as yellow or blue.
  - (f) The style of light poles and fixtures shall be compatible with the character of the area and any existing city standards.
  - (g) Parking and pedestrian light fixtures shall be compatible with the building lighting to provide for a consistent appearance of the project.
- (7) Infrastructure.
- (a) SGD projects shall demonstrate that adequate water supply and pressure are available, adequate sewerage capacity is available, adequate stormwater management is provided, traffic circulation on site is safe and convenient and the traffic flow and circulation at nearby intersections is preserved, pursuant to the criteria stipulated in § 235-16.1. Analysis and documentation of compliance with these standards shall be prepared by registered engineers

and/or other appropriate professionals. When the size and complexity of a proposal for an SGD project warrants an independent review of the impacts, the applicant will be responsible for funding such independent peer review.

- (b) In cases where a specific SGD project would not otherwise meet the above criteria, the developer shall implement mitigation measures, including, but not limited to, improvements to public infrastructure, to adequately address any deficiency.

(8) Signs.

- (a) An SGD project shall comply with the provisions of this section, which supersede the provisions of §§ 235-27 through 235-30 for SGD projects only.
- (b) An SGD project may have up to two standing signs complying with the following standards:
  - [1] Maximum height above the sidewalk: six feet.
  - [2] Maximum sign area: 40 square feet per sign face.
  - [3] Minimum setback from front lot line: 10 feet.
  - [4] Minimum setback from side lot line: 30 feet.
  - [5] Minimum distance between two standing signs on the same lot: 300 feet.
- (c) Within an SGD project, each business that has an exterior

public entrance may have one wall sign, attached and parallel to the facade containing said entrance, as follows:

- [1] Maximum sign area: 50 square feet or 10% of the area of the facade occupied by the business, whichever is less.
  - [2] Maximum projection from building wall: six inches.
- (d) Within an SGD project, each business that has an exterior public entrance may have one projecting (blade) sign, attached and perpendicular to the facade containing said entrance, as follows:
    - [1] Maximum height above grade: 15 feet.
    - [2] Minimum clearance above grade: eight feet.
    - [3] Maximum sign area: six square feet per side.
    - [4] Maximum projection from building wall: four feet.
  - (e) Signs in display windows may be permitted, provided that such signage shall not cover more than 10% of the display window area and shall be lighted only by building illumination (stationary white light).
  - (f) Signs may be illuminated only by an external source of steady, stationary white light, of reasonable intensity, shielded and directed solely

at the sign, and not casting direct or reflected light off the premises. No sign shall be illuminated internally or from behind a translucent sign face. All light fixtures shall either be decorative (such as goose-neck lights) or camouflages. Wiring should be concealed within building molding and lines.

(g) The following additional signs are permitted in an SGD project:

- [1] Any traffic or directional sign owned and installed by a governmental agency.
- [2] One unlighted temporary sign offering premises for sale or lease for each parcel in one ownership, provided that it shall not exceed six square feet in surface area and it shall be set back at least 10 feet from the street lot line.
- [3] One unlighted temporary sign of an architect, engineer or contractor erected during the period such person is performing work on the premises on which such sign is erected, provided that it shall not exceed four square feet in surface area and it shall be set back at least 10 feet from the street lot line.

(h) Additional sign regulations:

- [1] The limitations as to the number of signs permitted does not apply to traffic or directional signs which are necessary for the safety and direction of residents, employees, customers and visitors, whether in a vehicle or on foot, of any business, industry or residence. Such signs shall not carry the name of any business or product.
- [2] The supporting members for any sign shall be in acceptable proportion to the size of the sign.
- [3] Any sign attached to a building shall not extend above the height of the roof of the building.
- [4] No sign shall be erected so as to obstruct any door, window or fire escape on a building.
- [5] Signage should employ colors and type faces that complement the primary architectural style of the building.
- [6] Signs should be made of durable materials compatible with the materials of the building served.
- [7] Signage shall be integrated into the architecture. Signage that covers or obscures significant architectural details of the building shall be avoided.

[8] In a multiple-storefront building, the signage should be of a size, location, material and color that relates harmoniously between bays.

[9] Neon signs, reader boards, LED lights, or other similar signs shall not be permitted.

#### H. Affordable housing.

- (1) An SGD project shall be subject to the Affordable Housing Incentive Program under § 235-73.1, as modified by Subsection H(2) through (5) below.
- (2) In an SGD project, the affordable Units (as defined in § 235-73.1A) shall qualify for inclusion on the Massachusetts Department of Housing and Community Development's Chapter 40B Subsidized Housing Inventory (SHI) or any successor inventory. Failure to maintain compliance with the criteria for inclusion on the SHI, or removal of an affordable unit from the SHI for any reason, shall be deemed to be noncompliance with this § 235-71.1.
- (3) Unless otherwise required for inclusion on the SHI, the rent price, including utilities, of an affordable unit in an SGD project shall be established using the income of households making 80% of the median household income in the Metropolitan Area Boston-Cambridge-Quincy HMFA Standard Metropolitan Statistical Area, adjusted for family size, and

shall not exceed 30% of the income of said median household.

- (4) Unless otherwise required for inclusion on the SHI, the sale price of an affordable unit in an SGD project shall be established using the income of households making 80% of the median household income in the Metropolitan Area Boston-Cambridge-Quincy HMFA Standard Metropolitan Statistical Area, adjusted for family size. The mortgage payment, assuming down payment of 5% and including hazard insurance, real estate taxes, condominium fees and, where applicable, private mortgage insurance, shall not exceed 30% of the income of said median household.
- (5) Regardless of the rent or sales price limitations in the previous subsections, the developer of an SGD project may choose to reduce the rent or sales price of the affordable unit/s.

#### I. Ownership and maintenance of common facilities.

- (1) All internal streets, ways, and parking areas shall be privately owned. The maintenance of all such private streets, ways and parking areas, including but not limited to snowplowing, patching and repaving, shall remain the responsibility of the owner. All deeds conveying any portion of the land containing private streets, ways, or parking areas shall note this private responsibility of maintenance.
- (2) In order to ensure that any proposed common open space and

common facilities within the development will be properly maintained, any SGD project in which dwelling units shall be offered for sale shall have a residents association, which shall be in the form of a corporation, nonprofit organization or trust established in accordance with appropriate state law by a suitable legal instrument or instruments recorded at the Registry of Deeds or Registry District of the Land Court. As part of the site plan review, the applicant shall supply to the Planning Board copies of such proposed instrument.

J. Development phasing.

- (1) An SGD project may be developed in phases and may be developed under one or more building permits and occupancy permits. Phasing of the development and associated infrastructure shall be specified in the site plan approval.
- (2) Lot area coverage, open space, affordable housing, off-street parking and required mitigation shall correspond with the sequence of development implemented in the SGD project, so that at all times such requirements shall be met as applied only to those portions of the SGD project for which building permits have been issued. Such requirements shall be met prior to the issuance of certificates of occupancy for such buildings.

(Ord. No. 08-128, 4-7-2008)

**§ 235-72. Adult uses.**

For adult use consisting of adult bookstore, adult club, adult motion picture theater, adult paraphernalia store or adult video store, the following conditions shall apply:

- A. Adult uses shall be permitted only when located outside the area circumscribed by a circle which has a radius consisting of the following distances from the specified use or zoning district:
  - (1) Three hundred feet from any residential district (SR, SR-A, SR-B, UR-A, UR-B, UR-C and UR-D).
  - (2) Three hundred feet from any school, park or playground.
  - (3) Three hundred feet from any place of religious worship or assembly.
- B. The radius distance shall be measured by following a straight line, without regard to intervening buildings or structures, from the nearest point of the property parcel upon which the proposed use is to be located to the nearest point of the parcel of property for the land use district boundary line from which the proposed adult use is to be separated.
- C. Adult uses shall be permitted only when located 300 feet from any other adult use.
- D. Nothing in this chapter is intended to authorize, legalize or permit the establishment, operation or maintenance of any business, building or use which violates any City ordinance or statute of the Commonwealth of Massachusetts regarding public nuisances, sexual conduct, lewdness or obscene or harmful matter or the exhibition of public display thereof.

(Ord. No. 97-38, 12-16-1996)

**§ 235-73. Wireless communications service facilities.**

For a wireless communications service facility, in addition to the applicable conditions contained in this chapter and conditions specifically imposed by the Board of Appeals, the following conditions shall apply:

- A. An applicant proposing a WCSF must demonstrate that there are no other adequate WCSF reasonably available to accommodate the new or additional WCSF equipment. To the extent feasible, all service providers shall co-locate on a single facility. The intent of this requirement is to reduce the number of facilities that will be required within the community.
- B. The only freestanding WCSF allowed is a monopole.
- C. No freestanding facility shall exceed more than 80 feet in height above grade.

D. Facilities mounted on buildings may not extend more than 10 feet above the height of the building or more than 12 inches beyond the face of walls or exterior surfaces in the case of structures that do not have walls. For purposes of this subsection, height of a building shall mean "height" as defined in Article II of this chapter.

E. Roof-mounted facilities must be stepped back from the front facade to limit the impact on building silhouette and, where possible, concealed from public view.

F. Trees and vegetation shall be used as a buffer zone for freestanding WCSF. Such buffer zone shall measure at least five feet in height and shall be maintained in healthy condition. It is not intended to interfere with the operation of the facility. In cases where vegetation already exists efforts will be made to preserve such vegetation or replace with similar

(Cont'd on page 23557)





- vegetation. In areas where buffer zones of trees and vegetation must be implanted, the Planning Board shall review and recommend what trees and vegetation shall be implanted on the property.
- G. The color of the facilities shall be painted a neutral color or such color that will blend and minimize the facility's appearance.
  - H. Fencing shall be used to control access and shall be aesthetically compatible with the area. Razor wire, barbed wire or a similar wire shall not be allowed.
  - I. Night and other lighting shall be prohibited except as required by the FAA. Any emergency or repair lighting shall be shielded from abutting properties and only used for a reasonable time as necessary for such emergency or repair.
  - J. There shall be no advertising permitted on or in the vicinity of the facilities, except for no trespassing signs. An unlighted sign no more than one square foot in surface area shall be displayed with a name and telephone number of a contact person to call for twenty-four-hour maintenance.
  - K. Traffic associated with the facility and accessory facilities and structures shall not adversely affect abutting ways.
  - L. Certification by a licensed structural professional engineer of the integrity of the facility and, when installed on an existing building or facility, certification as to the capability of the structure to accept the added load being installed.
  - M. Stormwater runoff shall be contained on site or discharged to the City stormwater system.
  - N. WCSF shall not generate noise in excess of the levels permitted under the Chapter 164, Noise, or in excess of 50 dbs, whichever is less.
  - O. A freestanding facility shall not be erected nearer to any property line than a distance equal to the vertical height of the facility measured at the mean finished grade of the facility plus five feet.
  - P. All facilities shall be designed to be constructed at the minimum height necessary to accommodate the anticipated and future use.
  - Q. Structures are to be aesthetically consistent with the area in which they are located.
  - R. An applicant proposing a WCSF in a residential zoning district shall demonstrate that the facility must be located at the proposed site due to technical, topographical or other unique circumstances.
  - S. Special permits under this section shall be for a term of five years from the date of the decision approving the special permit. An applicant for a special permit may reapply at any time after the fourth anniversary of the date of the decision approving the special permit. In the event a renewal of a special permit is granted, it shall run for a period of five years commencing on the date of expiration of the prior special permit.

(Ord. No. 99-021, 1-4-1999)

#### **§ 235-73.1 Affordable housing incentive program.**

Purposes. The purposes of this § 235-73.1 are to promote the public health, safety and welfare by encouraging the expansion and

upgrading of the City's housing stock; to provide for a full range of housing choices throughout the City for households of all incomes, ages and sizes in order to meet the City's goal of preserving diversity; to increase the production of affordable housing units to meet existing and anticipated housing and employment needs within the City; to provide a mechanism by which residential development can contribute in a direct way to increasing the supply of affordable housing; and to establish standards and guidelines for the use of such contributions.

- A. Definitions. As used in this section, the following terms shall have the meanings indicated:

**AFFORDABLE UNIT** — Any dwelling unit for which the rent (including utilities) does not exceed 30% of the income of the renting household or for which the mortgage payment, including insurance, real estate taxes and condominium fees, does not exceed 30% of the income of the purchasing household.

**DEVELOPER** — Any individual, corporation, business trust, real estate trust, partnership or association, or any other entity or combination thereof.

**ELIGIBLE HOUSEHOLD** — Any household whose total income is between 50% and 80% of the median income of households in the Boston Standard Metropolitan Statistical Area adjusted for family size.

**MEDIAN INCOME** — The income set forth in or calculated from regulations promulgated by the United States Department of Housing and Urban Development, pursuant to Section 8 of the Housing Act of 1937, as amended by the Housing and Community Development Act of 1974.

**MIXED USE DEVELOPMENT** — A development that contains a combination of at least 2,500 square feet of commercial gross floor area plus five or more residential units.

**PERIOD OF AFFORDABILITY** — Shall be in perpetuity (99 years).

**PROPERTY, PHASED** — Any residential or mixed use development or developments at one or more adjoining sites in common ownership or under common control within a period of two years from the first date of application for any special or building permit for construction on the lot or lots.

**RESIDENTIAL DEVELOPMENT** — Single-, two-family and multifamily homes, townhouse development, elderly oriented congregate housing and lodging and rooming house dwellings.

- B. Applicability and requirements.

- (1) The provisions of this § 235-73.1 shall apply to any residential or mixed use development containing five or more dwelling units, including phased projects. These provisions shall apply with respect to developments in all zoning districts of the City, provided that the provisions of this section shall not apply to any residential or mixed-use development which has previously received a special permit or variance from the relevant permit granting authority containing conditions requiring the inclusion of affordable housing in such residential or mixed-use development, nor to any such residential or mixed-use development which is subsequently modified in accordance with the provisions of this section, provided that such affordable housing inclusion conditions remain

substantially unchanged as a result of any such modification. Developments required to obtain a special permit in accordance with this § 235-73.1 shall not be required to obtain a special permit for more than four accessory parking spaces under § 235-17, accessory use #18.

- (2) A developer of a residential or mixed use development subject to these provisions shall provide 10% of the total number of dwelling units up to the maximum allowed as of right as affordable units. Where the application of that formula results in a fraction, a fraction of one half or more shall be rounded up to the next whole number and a fraction of less than one half shall be rounded down. Each affordable unit shall meet the standards established in Subsection D below.
- (3) In special circumstances, the developer shall be required to make a monetary contribution to the Melrose Affordable Housing Trust in lieu of providing affordable dwelling units. The Melrose Affordable Housing Trust will use the funds exclusively to help finance the development of affordable units. The Planning Board shall allow this monetary contribution if it finds that there are special circumstances relating to the property that indicate that it is in the best interest of the City not to allow the developer an additional unit for every affordable unit required. Special circumstances shall include, but not be limited to, topography, infrastructure, drainage, traffic and parking. The monetary contribution shall be determined by the Planning Board, with input from the developer, the Building Commissioner and the City Assessor, and shall be equal to 2% of the total

sale or market value of all the units in the development. At the discretion of the Planning Board, on the basis of special circumstances as described above, a developer may be required to contribute a combination of affordable units and money.

- C. Incentives To facilitate the objectives of this section, the following modifications to the dimensional requirements in any zoning district shall be permitted by special permit by the Planning Board for a development that provides affordable housing units in accordance with Subsection B above.

- (1) For every affordable unit required by Subsection B above, the developer may build one additional unit in the development, regardless of the minimum lot area required for the additional unit or units and the parking requirements for the development. Except for the minimum lot area requirement and parking regulations, all other dimensional and density regulations shall apply to the development. The parking requirement for the development shall be determined by the Planning Board as part of the special permit process herein, but shall not be less than 1.5 spaces per unit.
- (2) Affordable units required by Subsection B shall be provided on-site unless comparable units are provided off-site with the approval of the Planning Board.

- D. Standards for construction and occupancy of affordable units.

- (1) Affordable units shall be dispersed throughout the development and shall be comparable in size, number of bedrooms, materials and parking to dwelling units in the neighborhood

and in the development in which it is located. Exteriors of affordable units shall be consistent with and indistinguishable from the exteriors of other units in the project.

- (2) Affordable units shall serve eligible households of diverse sizes whose incomes are between 50% and 80% of the median income of households in the Boston Standard Metropolitan Statistical Area.
- (3) The number of persons occupying the affordable units shall be consistent with HUD regulations regarding occupancy.
- (4) Unless otherwise prohibited by law, affordable units shall be offered initially to Melrose residents or persons employed within the City of Melrose as follows: 70% of the units shall be offered initially to current residents or persons employed in Melrose. Persons that both reside and work in Melrose shall be counted as residents only.
- (5) The rental or ownership of affordable units shall mirror the project as a whole. For example, affordable units should be sold, not rented, where a majority of units will be offered for sale.

**E. Administration and enforcement.**

- (1) The affordable units shall be subject to proper deed restrictions consistent with Massachusetts General Law, providing that the unit should be maintained as an affordable unit in perpetuity (99 years).
- (2) They shall be occupied by eligible households that are appropriately housed as defined by HUD.
- (3) Eligibility for affordable units shall be determined by the Melrose Housing

Authority, using marketing and selection guidelines customarily employed by the Department of Housing and Community Development in selecting tenant and homeowner households under other City, state, or federal housing assistance programs. The Melrose Affordable Housing Trust shall create and administer rules determining how affordable units are awarded to eligible households, and shall be responsible for any administrative costs.

- (4) An affordable housing agreement shall be signed by the developer, its chief operating officer and the Melrose Affordable Housing Trust and a copy of the agreement shall be kept on file with the Building Commissioner in the Inspectional Services Department. The agreement shall, at a minimum, identify and describe the affordable dwelling units in the development, an inventory of the units, condition of the units and terms of their sale or lease.

(Ord. No. 04-184A, 8-9-2004)

**§ 235-73.2. Slope protection.**

**A. Purpose.**

- (1) The purposes of this section shall be to:
  - (a) Preserve and enhance the landscape by encouraging the maximum retention of natural topographic features, such as drainage swales, streams, slopes, ridge lines, rock outcroppings, vistas, natural plant formations and trees;
  - (b) To minimize the effects of grading to ensure that the natural character of steep slopes is retained;

(c) To minimize water runoff and soil-erosion problems incurred in grading of steep slopes; and

(d) To encourage innovative architectural, landscaping, circulation and site design.

(2) For the purposes of this section, the term "natural" shall be defined as the condition of the ground surface as it exists on the date this ordinance is adopted. No land may be regraded or filled in such manner as to circumvent this bylaw.

B. Applicability.

(1) The provisions of this section shall be applicable to all zoning districts in the City of Melrose. Exempted from this section shall be:

(a) Alterations, extensions, and additions to existing single- and two-family dwellings and buildings accessory thereto that do not expand the building footprint by more than 500 square feet;

(b) Site improvements to existing single- and two-family dwellings that do not exceed 500 square feet.

(2) The provisions of this section shall not apply to a development which has received a street opening permit by the Engineering Division and has substantially completed construction at the time the notice of this amendment was published.

C. Use and Dimensional Regulations. The slope of land at any point, stated as a percentage, shall be defined as the change in elevation over a horizontal distance multiplied by one hundred.

Slope = (Change in elevation  $\pm$  horizontal distance measured perpendicular to horizon)  $\times$  100

(a) All areas with natural slopes exceeding 25% over a horizontal distance of 30 feet on a tract or parcel of land intended or proposed for subdivision or development, or on a lot intended for building purposes, shall be excluded from the calculation of the minimum lot area required for the applicable zoning district.

(b) All natural slopes exceeding 25% over a horizontal distance of 30 feet are protected and shall remain in their natural state.

D. Special Permit. The Planning Board may grant a special permit to utilize areas with natural slopes exceeding 25%, as prohibited in Subsection C(1) and (2), if the Board finds that the proposal satisfies the purposes set forth in Subsection A(1)(a) through (d) above as well as the findings in § 235-63 of the Zoning Ordinance.

(1) Applications.

(a) Applications for a Special Permit shall include the following:

[1] An executive summary and site plan generally describing the nature and location of the project, how it fulfills the purpose of this section, and meets the requirements for issuance of a special permit under Article XI;

[2] Parcel lot lines for the proposed project and surrounding parcels;

[3] Location of existing and proposed buildings on the project site;

- [4] Foundation lines of the proposed buildings, gross floor area, and building height;
  - [5] Existing and proposed topography and the location of all natural features such as wetlands, streams, water bodies, and exposed bedrock to be removed, if any;
  - [6] Areas subject to a one-hundred-year flood, if any;
  - [7] Provisions for the protection of abutting properties during construction, and site excavation, demolition, blasting, and site reclamation plans if appropriate;
  - [8] Proposed landscaping, including all screening and buffering of adjacent residential areas;
  - [9] An erosion prevention plan prepared by a registered/licensed professional, which includes calculations and measures to prevent erosion and undermining of the subject property and abutting properties. Include how slope protection will be achieved, and details of all retaining walls if applicable;
  - [10] Drainage calculations prepared by a registered/licensed engineer, demonstrating that following the proposed removal, the amount of run-off shall not exceed the amount of run-off prior to the removal;
  - [11] A storm water management plan and installation of underground and surface drainage facilities in accordance with Best Management Practices (BMP's) to prevent surface erosion, undermining, and post-development run-off that exceeds pre-development run-off; and
  - [12] Any other information requested by the Planning Board that will allow fair and full consideration of the special permit request.
- (b) Any of the requirements of a Slope Protection Special Permit application may be waived by a majority vote of the SPGA. Waiver requests must be in writing.
- (2) The Office of Planning and Community Development (OPCD) will distribute a set of the application materials to the City Engineer and Building Inspector for review. OPCD will provide notice of receipt of an application to the Board of Health, Fire Chief, Police Chief, Conservation Commission, City Solicitor, and Mayor. All departments shall report their comments, conditions, remedial measures and recommendations, in writing, to the Planning Board within 30 days.
- (3) If an applicant receives a Special Permit pursuant to this section to utilize slopes exceeding 25%, then a variance from the Ordinance will not be necessary from the Board of Appeals for insufficient lot area, unless the entire lot area, including the area of slope exceeding 25%, is insufficient for building purposes under the Ordinance.

- E. Special Permit Granting Authority. For Slope Protection Special Permits the Planning Board is the Special Permit Granting Authority.
- F. Relationship to Site Plan Review. For the convenience of the applicant, site plan review and request for a special permit pursuant to this section may be acted upon concurrently to the degree feasible. The applicant will be responsible for submitting a request which meets all submission requirements, concurrently, in order to streamline notice and hearing requirements.

(Ord. No. 06-017, 12-19-2005; Ord. No. 06-224, 6-5-2006; Ord. No. 06-224A, 5-19-2008)

## ARTICLE XII Removal and Filling

### § 235-74. Removal of sand, gravel, quarry or other earth materials.

For the removal of sand, gravel, quarry, loam, sod or other earth materials other than that which is incidental to and in connection with the construction of a building for which a permit has been issued in accordance with Article X and for processing and treating raw materials, the following conditions shall govern:

- A. Removal and processing operations shall not be conducted closer than 50 feet to a public street or to any property line.
- B. All equipment, except mobile equipment for sorting, washing, crushing, grading, drying, processing and treating, or other operation machinery shall not be used closer

than 100 feet to any public street or to any adjoining property line.

- C. Off-street parking shall be provided as required in the Table of Off-Street Parking Regulations.<sup>2</sup>
- D. Any access to excavated areas or areas in the process of excavation shall be adequately posted with "Keep Out - Danger" signs.
- E. Any work or bank that slopes more than 30° downward shall be adequately fenced at the top.
- F. Adequate provision is to be made for drainage during and after the completion of operations.
- G. Lateral support shall be maintained for all adjacent properties.
- H. The use of explosives shall be done in accordance with the regulations for storage or handling of explosives as published by the Commonwealth of Massachusetts.
- I. All operations shall be conducted in such a manner so as to comply with the laws of the Commonwealth of Massachusetts regulating water pollution and air pollution.
- J. Provision shall be made for the adequate control of dust during the operation.
- K. Required site plan. Site plans shall be filed with the Building Commissioner for any land which is used or intended to be used for the extraction of sand, gravel, rock, loam, sod and associated earth materials. Site plans for the removal areas shall be prepared by a registered professional engineer and a

<sup>2</sup> Editor's Note: See Art. VIII, Off-Street Parking and Loading.



registered land surveyor at a scale of 200 feet to the inch and shall be in accordance with and indicate the following:

- (1) Property lines.
- (2) Adjacent public streets.
- (3) Water supply and sanitary sewerage systems and temporary and permanent drainage systems for the site.
- (4) Topographic mapping showing contours at intervals of not more than 10 feet.
- (5) Replacement of at least four inches of topsoil over all excavated, filled or otherwise disturbed surfaces and seeding with a perennial cover crop, reseeded as necessary to assure uniform growth and soil surface stabilization.

(Cont'd on page 23559)

- (6) Submission of plan for lighting if night operation is contemplated.
  - (7) Proper provision for vehicular traffic, service roads and control of entrances and exits to highways.
  - (8) The relocations of existing and future buildings and operations machinery to the removal areas.
  - (9) Delineation of the existing removal areas and the proposed area for removal in the immediate future.
  - (10) Provision for a substantial fence enclosing the excavation or quarry where any excavation or quarry will extend under original ground level or will have a depth of 10 feet or more and create a slope.
- L. Required reuse plan. It is recognized that land reuse of a removal site is in the public interest. Therefore, a land reuse plan(s) must be submitted to and approved by the Building Commissioner, following review by the Planning Board, subject to the regulations set forth in the following subsections:
- (1) The Building Commissioner may require that up to three approved alternative future land reuse plans be submitted for such land as is used for the extraction of sand, gravel, rock, loam, sod and associated earth materials. A land reuse plan is also required where an existing extraction operation is extended below the grade of adjacent ground.
  - (2) Said land reuse plan and its implementation applies to the

conversion of the abandoned site and its planned reuse, including landscaping and erosion control. It is, therefore, required that any land reuse plan correspond to a situation which could reasonably occur in the immediate future (zero to five years) and be revised as necessary as the existing physical character of the removal area changes.

- (3) The land reuse plan or any part thereof which reasonably applies to an area which has been abandoned from removal use shall be put into effect within one year of the abandonment of said operation. "Abandonment" for the purposes of this subsection shall be defined as the visible or otherwise apparent intention of the owner or user of the land to abandon the use of the land.

(Ord. No. 16985C, 11-27-1972)

#### § 235-75. Filling of water bodies or wet areas.

For the filling of any pond, lake, swamp or other existing body of water or wet area and the filling in of any swale, valley or other area or depression, where such filling in requires an amount of fill equivalent to 500 cubic yards or more or where the area to be filled in exceeds 10,000 square feet and where such filling has received prior approval of the appropriate state officials under the applicable provisions of state law on inland wetlands, the following conditions apply:

- A. A location plan at a scale of one inch equals 650 feet showing the area to be filled in, property lines within which the filling is proposed and tie-

in to the nearest road intersection shall be submitted.

- B. A site plan shall be submitted to a scale of one inch equals 40 feet of the premises and surrounding area within 100 feet showing, in addition to Subsection A above, existing and proposed contour lines at intervals of not more than two feet resulting from the proposed filling in, in relation to the topography of the premises, said plan to be prepared by a registered professional engineer or registered land surveyor.
- C. Provision shall be made for temporary and permanent drainage of the site.
- D. Fills shall be limited to terrace fills which are not to exceed 10 feet at any one time nor be within 10 feet of an adjacent property line or any cut.
- E. Regrading of all or parts of the slopes resulting from such fill shall be carried out.
- F. At least four inches of topsoil shall be replaced over all filled or otherwise disturbed surfaces with seeding with a perennial cover crop, reseeded as necessary to assure uniform growth and soil surface stabilization.
- G. A plan for lighting, if night operation is contemplated, shall be submitted.
- H. Where any fill will have a depth of 10 feet or more and create a slope of more than one in two, there shall be a substantial fence enclosing the fill at least six feet in height with suitable gates. Such fence shall be located 10 feet or more from the edge of the fill.
- I. The planned filling in shall be consistent with any recreation,

conservation and open space plan as prepared by the Planning Board.

- J. Documentation shall be submitted as to the effect of such filling in on drainage both within the immediate area and sufficiently far downstream as required by the Building Commissioner.

(Ord. No. 16985C, 11-27-1972)

#### § 235-76. Filling of any lot.

For the filling of any lot or placement of fill on a lot where such fill exceeds 10 cubic yards a building permit shall be required prior to the commencement of the operation as in accordance with Article X of this chapter and shall be subject to the following conditions:

- A. Unless waived by the Building Commissioner, information, including a site plan, pursuant to § 235-71K, area to be filled, volume of fill, proposed changes in grade or other information shall be submitted to and approved by the Building Commissioner prior to commencement of operations.
- B. No fill shall be deposited within the minimum front, rear or side yards as defined by the zoning district within which such lot is located except by written approval of the Building Commissioner.
- C. Operations, including truck access, temporary or permanent grade, slope, fencing and protection from wind and water erosion, shall be conducted in a manner agreeable to the Building Commissioner so as to protect the public health, safety and general welfare.

- D. Operations shall assume to be completed at the end of a twenty-eight-day period from the date of the initial commencement unless extended by written approval of the Building Commissioner.
- E. At the conclusion of operation, the filled area or fill materials shall be left in a manner approved by the Building Commissioner to assure soil surface stabilization and proper drainage of the site, including provision of topsoil and seeding or reseeding so as to support a perennial cover crop.
- F. The filling shall be consistent with other provisions of this chapter and Building Code of the City of Melrose, as approved by the Building Commissioner, and shall be consistent with any recreation, conservation, open space and environmental plans, regulations or statutes of the commonwealth or the City of Melrose.

(Ord. No. 16985C, 11-27-1972)

### ARTICLE XIII Home Occupation

#### § 235-77. Conditions.

Home occupations shall be permitted in a dwelling in any "R" and "B" district subject to the following conditions:

- A. No person other than the residential occupant(s) shall be employed therein.
- B. The use is carried on strictly within the principal building.
- C. No more than 40% of the existing gross floor area not to exceed 600 square feet is devoted to such use including storage of goods, materials and equipment related to the home occupation.

- D. There shall be no display of goods or wares visible from the street and equipment or materials used in the home occupation shall be stored entirely inside the dwelling.
- E. The buildings or premises occupied shall not be rendered objectionable or detrimental to the residential character of the neighborhood due to the exterior appearance, traffic, emission of odor, gas, smoke, dust, noise, electrical disturbance or any other safety hazard or nuisance. In a multifamily dwelling, the use shall in no way become objectionable or detrimental to any residential use within the multifamily structure.
- F. The building or premises occupied shall not include any external design feature or appearance not customary in residential buildings.
- G. No home occupation shall generate traffic, including pick up and deliveries, and/or parking that exceed that normally expected in the residential neighborhood.
- H. Not more than one commercial vehicle in connection with such home occupation shall be stored on the premises. An accepted off-street parking space shall be provided for any such commercial vehicle.
- I. A Special Permit acted on by the Board of Appeals is required if a home occupation results in more than 10 patron or client visits to the premises per week or if it involves one or two, but not more than two, employees who reside outside of the residence.
- J. There shall be no advertising and no signs on the premises except pursuant to § 235-28 of the Zoning Ordinance.

(Ord. No. 16985C, 11-27-1972; Ord. No. 95-189, 5-1-1995; Ord. No. 07-132, 5-7-2007)

**ARTICLE XIV  
Amendments, Severability  
and When Effective**

**§ 235-78. Amendments.**

This chapter may be amended from time to time in accordance with Section 5 of the Zoning Act. During the amendment procedure, subdivision plans in process of review by the Planning Board under the Subdivision Control Law shall be subject to the provisions of the Zoning Act; provided, however, that a preliminary plan has been filed and written notice of said filing has been submitted to the City Clerk for the City of Melrose.

(Ord. No. 16985C, 11-27-1972)

**§ 235-79. Severability.**

The invalidity, unconstitutionality or illegality of any provision of this chapter or boundary shown on the Zoning Map shall not have any effect upon the validity, constitutionality or legality of any other provision or boundary.

(Ord. No. 16985C, 11-27-1972)

**§ 235-80. When effective.**

This chapter shall take effect upon passage.

(Ord. No. 16985C, 11-27-1972)

**ARTICLE XV  
Floodplain District**

**§ 235-81. Establishment.**

The Floodplain District is herein established as an overlay district. The underlying permitted uses are allowed provided that they meet the following additional requirements as well as those of the Massachusetts State Building Code dealing with construction in floodplains. The Floodplain District includes all special flood hazard areas designated as Zones A and AE on the Middlesex 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 Middlesex County FIRM that are wholly or partially within the City of Melrose are panel numbers 25017C0427E, 25017C0429E, 25017C0431E, 25017C0433E and 25017C0434E dated June 4, 2010. The exact boundaries of the District may be defined by the one-hundred-year base flood elevations shown on the FIRM and further defined by the Middlesex County Flood Insurance Study (FIS) report dated June 4, 2010. The FIRM and FIS report are incorporated herein by reference and are on file with the City Clerk, Building Commissioner, Planning Board, Public Works Engineering Division and Board of Health.

(Ord. No. 1453A, 5-4-1987; Ord. No. 10-148, 5-17-2010)

**§ 235-81.1. Reference to existing regulations.**

- A. The Floodplain District is established as an overlay district to all other districts. All development in the district, including structural and nonstructural activities, whether permitted by right or by special

permit, must be in compliance with Chapter 131, § 40 of the Massachusetts General Laws and with the following:

- (1) Section of the Massachusetts State Building Code which addresses floodplain and coastal high hazard areas (currently 780 CMR 120.G, "Flood Resistant Construction and Construction in Coastal Dunes");
- (2) Wetlands Protection Regulations, Department of Environmental Protection (DEP) (currently 310 CMR 10.00);
- (3) Inland Wetlands Restriction, DEP (currently 310 CMR 13.00); and
- (4) Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, DEP (currently 310 CMR 15, Title 5).

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

(Ord. No. 10-148, 5-17-2010)

#### § 235-82. Development regulations.

- A. Within Zone A, where the base flood elevation is not provided on the FIRM, the applicant shall obtain any existing base flood elevation data and it shall be reviewed by the Planning Board and the Building Commissioner for its reasonable utilization toward meeting the elevation or floodproofing requirements, as appropriate, of the State Building Code.
- B. Within Zones A and AE, no new construction, substantial

improvements to existing structures, filling or other land development shall be permitted unless it is demonstrated by the applicant that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood elevation.

- C. Floodway data: 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.
- D. In Zone AE, along watercourses that have a regulatory floodway designation within the City of Melrose on the Middlesex 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.
- E. Base flood elevation data: Base flood elevation data is required for subdivision proposals or other developments greater than 50 lots or five acres, whichever is the lesser, within unnumbered A zones.

(Ord. No. 1453A, 5-4-1987; Ord. No. 10-148, 5-17-2010)

#### § 235-82.1. Notification of watercourse alteration.

In a riverine situation, the City Engineer shall notify the following of any alteration or relocation of a watercourse: adjacent communities, the NFIP State Coordinator

(Massachusetts Department of Conservation and Recreation), and the NFIP Program Specialist (Federal Emergency Management Agency, Region 1).  
(Ord. No. 10-148, 5-17-2010)

**§ 235-83. Subdivisions and new development.**

All subdivision proposals and other proposed new development shall be reviewed to determine whether such proposals will be reasonably safe from flooding. If any part of a subdivision proposal or other new development is located within the Floodplain District established under this article, it shall be reviewed to assure that:

- A. The proposal is designed consistent with the need to minimize flood damage;
- B. All public utilities and facilities, such as sewer, gas, electrical and water systems, shall be located and constructed to minimize or eliminate flood damage; and
- C. Adequate drainage systems shall be provided to reduce exposure to flood hazards.

(Ord. No. 1453A, 5-4-1987; Ord. No. 10-148, 5-17-2010)

**§ 235-84. Health regulations.**

The Board of Health and/or the Public Works Department, in reviewing all proposed water and sewer facilities to be located in the Floodplain District established under this article, shall require that:

- A. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system; and

- B. New and replacement sanitary sewer systems shall be designed to minimize or eliminate infiltration of floodwaters into the system and discharges of exfiltration from the system into floodwaters.

(Ord. No. 1453A, 5-4-1987; Ord. No. 10-148, 5-17-2010)

**§ 235-85. Authority.**

This article is established pursuant to the City of Melrose's compliance with Title 44, Chapter 1, Part 67, Code of Federal Regulations, establishing eligibility in the National Flood Insurance Program (NFIP). Copies of the National Flood Insurance Program and related regulations are on file with the City Clerk.

(Ord. No. 1453A, 5-4-1987; Ord. No. 10-148, 5-17-2010)

**ARTICLE XVI  
Wireless Communications  
Service Facilities**

**§ 235-86. Purpose.**

This article provides for the regulation and restriction of the construction, erection, installation, placement and/or use of wireless communications service facilities (WCSF) and the protection of the general public from the impact associated with WCSF. It is the purpose of this article to:

- A. Minimize the adverse impacts of WCSF on adjacent properties and residential neighborhoods;
- B. Limit the City-wide overall number and height of WCSF to what is essential;

- C. Encourage the most appropriate use of the land and maintain the residential character of the City;
- D. Promote shared use of existing WCSF to reduce the need for new facilities;
- E. Guide sound development while promoting the health, safety and general welfare of the City consistent with applicable federal law.

(Ord. No. 99-021, 1-4-1999)

**§ 235-87. Existing facilities;  
discontinuance; applicability.**

WCSF lawfully in existence before the effective date of this article shall be maintained and shall be kept in good

condition. The City of Melrose Building Commissioner shall receive at least 30 days' notice of the intent to discontinue use of any WCSF. A WCSF that is unused or abandoned for a period of 90 days must be removed by the property owner and the property restored to its natural condition. Any construction shall be governed by this chapter. This article does not apply to the construction or use of facilities by a conforming federally licensed amateur radio<sup>1</sup> used in accordance with said license as protected by MGL c. 40A, § 3, or television antennas, including satellite dishes which are accessory to a residential use and protected by federal law.

(Ord. No. 99-021, 1-4-1999)

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<sup>1</sup> Editor's Note: So in original. Apparently should read "radio operator" pursuant to MGL c. 40A, § 3.



# **Table of Use and Parking Regulations**

## **Table of Dimensional and Density Regulations**

*Amended and Approved April 6, 2015*

Table of Use and Parking Regulations  
City of Melrose

Principal Use:	Residential Districts						Business Districts					Industrial Districts		Parking Code (See § 235-32)
	SR	SR-A	SR-B	UR-A	UR-B	UR-C UR-D	BA BA-1	BA-2	BB BB-1	BC	BD	I	I-A	
Residential														
1. One-family detached dwelling	P	P	P	P	P	S	-	-	-	-	S	-	-	A1
1A. One-family with in-law apartment (see definition of in-law apartment)	S	S	S	S	S	S	-	-	-	-	S	-	-	A1
2. Two-family dwelling	-	-	-	S	P	P	-	-	-	-	P	-	-	A2
3. Multifamily dwelling <sup>1</sup>	-	-	-	-	S	P	-	-	-	S	P	-	-	B
4. Townhouse	-	-	-	S	S	P	-	-	-	-	P	-	-	B
5. Apartment house	-	-	-	-	S	P	-	-	-	-	P	-	-	B
6. Lodging house	-	-	-	-	P	P	-	-	-	-	P	-	-	C
7. Fraternities and sororities	-	-	-	-	P	P	-	-	-	-	-	-	-	C
8. Dormitories	-	-	-	-	P	P	-	-	-	-	P	-	-	C
9. Planned unit development (see Article XI, §§ 235-68, 235-69 and 235-70)	-	S	-	-	S	S	S	-	-	S	S	-	-	R
10. Cluster residential development (see Article XI, § 235-67)	S	S	S	-	-	-	-	-	-	-	-	-	-	B
11. Mixed residential/business uses where all dwelling units are above the first floor level <sup>2</sup>	-	-	-	-	S	S	P	P	-	P	P	-	-	Q
Community Facilities														
1. Church or other religious purpose	P	P	P	P	P	P	P	P	P	P	P	P	P	D
2. Educational purpose which is religious, sectarian, denominational or public	P	P	P	P	P	P	P	P	P	P	P	P	P	D, L, M
3. Private school, college or university	S	S	S	S	S	S	-	-	-	-	-	-	-	D, L, M
4. Private day nursery or kindergarten	S	S	S	S	S	S	S	S	-	-	S	-	-	1space per staff member
5. Membership club	S	S	S	S	S	P	P	P	P	P	P	-	-	N
6. Country, fishing, tennis or golf club	P	P	P	-	-	-	-	-	P	-	-	-	-	L
7. City governmental building except equipment garage	P	P	P	P	P	P	P	P	P	P	P	P	P	N, D
8. City equipment garage	-	-	-	-	-	S	-	-	P	-	-	P	P	Q <sup>3</sup>
9. City or nonprofit cemetery, including any crematory therein	P	P	P	P	P	P	-	-	-	-	-	-	-	R
10. City outdoor recreational facility	P	P	P	P	P	P	P	P	P	P	P	P	P	
11. Historical association or society	P	P	P	P	P	P	P	P	P	P	P	P	P	N
12. Hospital	-	-	-	-	-	-	-	-	-	-	P	-	-	J
13. Power plant, refuse incineration and sanitary landfill	-	-	-	-	-	-	-	-	-	-	-	P	P	O
14. Municipal parking lot or structure (see Article VIII, § 235-40)	S	S	S	P	P	P	P	P	P	P	P	P	P	None

Table of Use and Parking Regulations  
City of Melrose

Principal Use:	Residential Districts						Business Districts					Industrial Districts		Parking Code (See § 235-32)
	SR	SR-A	SR-B	UR-A	UR-B	UR-C UR-D	BA BA-1	BA-2	BB BB-1	BC	BD	I	I-A	
15. Street, bridge, tunnel, railroad lines	P	P	P	P	P	P	P	P	P	P	P	P	P	None
16. Facilities for essential services	P	P	P	P	P	P	P	P	P	P	P	P	P	None
17. Private overhead transmission line, substation or similar facility or building	S	S	S	S	S	S	S	S	S	S	S	S	S	R
18. Nursing home	-	-	-	-	-	S	-	-	-	-	P	-	-	K
<b>Agriculture</b>														
1. Agriculture, horticulture and floriculture except a greenhouse or stand for retail use	P	P	P	-	-	-	-	-	-	-	-	-	-	None
2. Year-round greenhouse or stand for wholesale and retail sale of agricultural or farm products	S	S	-	-	S	S	P	P	P	P	-	-	-	G
3. Temporary (not to exceed erection or use for a period of 3 months in any 1 year) greenhouse or stand for retail sale of agricultural or farm products raised primarily on the same premises	S	S	-	-	-	-	-	-	-	-	-	-	-	R
4. Commercial stable, kennel, or veterinary hospital in which all animals, fowl or other forms of life are completely enclosed in pens or structures	S	S	-	-	-	-	-	-	-	-	-	-	-	G
5. Noncommercial forestry and growing all vegetation	P	P	P	P	P	P	P	P	P	P	P	P	P	None
<b>Retail Service Commercial</b>														
1. Retail establishment selling principally convenience goods, including by not limited to food, drugs and proprietary goods:														
a. With a maximum floor area of 10,000 square feet for any single establishment	-	-	-	-	-	-	P	P	P	P	P	-	-	G
b. With no limitation with respect to floor area	-	-	-	-	-	-	P	P	P	-	-	-	-	G
1.1 Retail food establishment with a floor area of less than 3,000 square feet in conjunction with an off-premises liquor license	-	-	-	-	-	-	P	P	P	P	P	-	P	G
2. Retail establishment selling general merchandise, including but not limited to dry goods, apparel and accessories, furniture and home furnishings, home equipment, small wares and hardware, and including discount and limited price variety stores:														
a. With a maximum floor area of 10,000 square feet for any single establishment	-	-	-	-	-	-	P	P	P	S	-	-	-	G
b. With no limitation with respect to floor area	-	-	-	-	-	-	P	P	S	-	-	-	-	G
3. Eating and drinking places where consumption is primarily intended to be within the building	-	-	-	-	-	-	P	P	P	S	S	-	-	D
4. Drive-in eating and drinking establishment	-	-	-	-	-	-	-	-	S	-	-	-	-	G
5. Sales by vending machines as a principal use	-	-	-	-	-	-	-	-	S	-	S	-	-	G

**Table of Use and Parking Regulations  
City of Melrose**

Principal Use:	Residential Districts						Business Districts					Industrial Districts		Parking Code (See § 235-32)
	SR	SR-A	SR-B	UR-A	UR-B	UR-C UR-D	BA BA-1	BA-2	BB BB-1	BC	BD	I	I-A	
6. Establishment selling new automobiles and/or used automobiles and trucks, new automobile tires and other accessories, aircraft, boats, motorcycles and household and camping trailers	-	-	-	-	-	-	S	-	P	-	-	-	-	E
7. Hotels and motels	-	-	-	-	-	-	S	S	P	-	S	-	-	F
8. Personal and consumer service establishment	-	-	-	-	-	-	P	P	P	P	P	-	-	G
9. Funeral establishment	-	-	-	-	-	S	S	-	-	S	P	-	-	G
10. Medical offices (such as doctor offices, dentist offices and clinics), including accessory medical research and associated facilities	-	-	-	-	-	S	S	S <sup>4</sup>	-	S	P	-	-	G-1
11. Membership club operated for profit	-	-	-	-	-	S	P	P	-	S	-	-	-	N
12. Miscellaneous professional and business offices and services, including but not limited to legal and other professional services and finance, banking, insurance and real estate offices	-	-	-	-	-	-	P	P	S	S	P	-	-	G
13. Business and trade school or college	-	-	-	-	-	-	P	P	-	-	P	-	-	L
14. Automotive repair or automobile service station (not including a junkyard or open storage of abandoned automobiles or other vehicles)	-	-	-	-	-	-	S	-	P	S	-	S	S	E
15. Miscellaneous business repair services	-	-	-	-	-	-	P	S	S	S	-	-	-	G
16. Motion picture establishment, indoor	-	-	-	-	-	-	P	P	P	-	-	-	-	G
17. Other amusement and recreation service, indoor amusement	-	-	-	-	-	-	S	S	P	-	-	-	-	G
18. Other amusement and recreation service, outdoor amusement	-	-	-	-	-	-	-	-	P	-	-	-	-	R
19. Communications and television tower	-	S	S	-	-	-	-	-	-	-	-	-	-	R
20. Commercial parking lot or structure, including a public garage (see Article VIII, § 235-41 for requisite standards)	-	-	-	-	-	S	P	-	P	P	S	P	P	None
21. Filling of water or wet area (See Article XII, § 235-75)	S	S	S	S	S	S	S	S	S	S	S	S	S	None
22. Planned business development (see Article XI, § 235-71)	-	-	-	-	-	S	S	S	S	S	S	-	-	G, G-1
23. Data processing, computer, telephone, printing, mailing and other similar operations, when approved as part of a planned business development	-	-	-	-	-	P	P	P	P	P	P	-	-	G
24. Adult Use	-	-	-	-	-	-	-	-	S	-	-	S	S	G
25. Wireless communication service facility	S	S	S	S	S	S	S	S	S	S	S	S	S	None
26. Towers	S	S	S	S	S	S	S	S	S	S	S	S	S	None

Table of Use and Parking Regulations  
City of Melrose

Principal Use:	Residential Districts						Business Districts					Industrial Districts		Parking Code (See § 235-32)
	SR	SR-A	SR-B	UR-A	UR-B	UR-C UR-D	BA BA-1	BA-2	BB BB-1	BC	BD	I	I-A	
Wholesale, Transportation and Industrial														
1. Removal of sand, gravel, quarry or other raw material (see Article XII, § 235-74)	-	S	-	-	-	-	-	-	-	-	-	S	S	H
2. Processing and treating of raw materials, including operations appurtenant to the taking, such as grading, drying, sorting, crushing, grinding and milling operations (see Article XII, § 235-74)	-	S	-	-	-	-	-	-	-	-	-	S	-	H
3. Construction industry, including suppliers	-	-	-	-	-	-	-	-	P	-	-	P	P	H
4. Manufacturing (see note at end of this table)	-	-	-	-	-	-	-	-	-	-	-	P	P	I
5. Bakery, laundry or dry-cleaning plant	-	-	-	-	-	-	S	S	P	S	-	P	P	I
6. Railroad yards and railway express service	-	-	-	-	-	-	-	-	P	-	-	P	P	H
7. Motor freight terminal and warehousing	-	-	-	-	-	-	-	-	P	-	-	P	-	H
8. Bus or railroad passenger terminal	-	-	-	-	S	P	P	P	P	P	-	-	-	P
9. Heliport, subject to the design criteria and standards of the Federal Aviation Administration as published in Heliport Deign Guide, November 1969, or any later revision thereto	-	-	-	-	-	-	S	-	S	-	-	S	-	P
10. Other transportation service	-	-	-	-	-	-	-	-	P	-	-	P	P	P
11. Wholesale trade and distribution	-	-	-	-	-	-	-	-	P	-	-	P	P	H
12. Open storage of raw materials, finished goods or construction equipment and structures for storing such equipment, provided it shall be screened from outside view by an enclosed solid fence and gate at least 10 feet in height, or a solid wall of evergreens, when planted not more than 18 inches apart and at least 3 feet in height, said evergreens to be of vertical habit and to be maintained, and a solid gate at least10 feet in height and not more than 20 feet in width	-	-	-	-	-	-	-	-	S	-	-	S	S	R
13. Storage of a fluid other than water as a principal use	-	S	S	S	S	S	S	S	S	S	S	S	S	R
14. Research offices or establishments devoted to research and development activities	-	-	-	-	-	-	S	S	S	S	S	P	P	H
Accessory Use	Residential Districts						Business Districts					Industrial Districts		Parking Code (See § 235-32)
	SR	SR-A	SR-B	UR-A	UR-B	UR-C UR-D	BA BA-1	BA-2	BB BB-1	BC	BD	I	I-A	
1. Home occupation (see Article XIII, § 235-77)	P	P	P	P	P	P	P	P	P	P	P	-	-	T
2. Private day nursery or kindergarten, provided it shall not occupy more than 30% of the gross floor area of the structure	S	S	S	S	S	S	S	-	-	-	-	S	S	N

**Table of Use and Parking Regulations  
City of Melrose**

Accessory Use	Residential Districts						Business Districts					Industrial Districts		Parking Code (See § 235-32)
	SR	SR-A	SR-B	UR-A	UR-B	UR-C UR-D	BA BA-1	BA-2	BB BB-1	BC	BD	I	I-A	
3. Accessory professional office of a licensed medical or dental practitioner in an existing dwelling	S	S	S	S	S	S	S	S	S	S	P	S	S	G-1
4. Accessory building, such as a private garage, playhouse, greenhouse, tool shed, private swimming pool, carport, garage or similar accessory structures, subject to provisions of Article VI	P	P	P	P	P	P	P	P	S	S	S	-	-	None
5. Accessory private garage for noncommercial motor vehicles, subject to provisions of Article VI	P	P	P	P	P	P	P	P	P	P	P	-	-	None
6. Accessory community garages for noncommercial motor vehicles, subject to provisions of Article VI	-	-	-	S	P	P	P	P	P	P	P	P	P	None
7. Accessory storage of a trailer, unregistered boat, utility trailer or boat trailer provided it shall either be stored within a principal or accessory building or behind the building line within the side or rear yards and it shall not be used for dwelling or sleeping purposes; unregistered automobiles or unregistered trailers shall not be stored outside in residential districts	P	P	P	P	P	P	-	-	P	-	-	P	P	None
8. Accessory repair and storage facilities in any retail sales or consumer establishment, provided it shall be not occupy more than 25% of the gross floor area and shall not be located within 15 feet of any entrance used by the public	-	-	-	-	-	-	P	P	P	P	S	-	-	I
9. Accessory outside storage clearly necessary to the operation and conduct of a permitted principal wholesale, transportation, industrial and/or commercial use, provided it shall be screened from outside view by an enclosed solid fence or wall and gate at least 10 feet in height, or a solid wall of evergreens, when planted not more than 18 inches apart and at least 3 feet in height, said evergreens to be of vertical habit and to be maintained, and a solid gate at least 10 feet in height and not more than 20 feet in width	-	-	-	-	-	-	-	-	-	-	-	P	P	None
10. Accessory manufacturing use, provided it shall not occupy more than 25% of the gross floor area of the building and it shall not be located within 100 feet of “R” district or within 50 feet of any street lot line	-	-	-	-	-	-	-	-	-	-	-	P	P	Same as principal use

**Table of Use and Parking Regulations  
City of Melrose**

Accessory Use	Residential Districts						Business Districts					Industrial Districts		Parking Code (See § 235-32)
	SR	SR-A	SR-B	UR-A	UR-B	UR-C UR-D	BA BA-1	BA-2	BB BB-1	BC	BD	I	I-A	
11. Accessory retail or consumer service use in a multifamily dwelling over 20,000 square feet in gross floor area, provided all activities are located on the first floor or basement floor levels; such uses shall not aggregate more than 2,000 square feet; all materials, goods and activities in connection with said uses shall be confined completely within the building	-	-	-	-	S	S	S	P	-	-	S	-	-	Same as principal use
12. Newsstand, barbershop, dining room or cafeteria and similar accessory services primarily for occupants or users thereof within a hotel, office or industrial building, hospital containing more than 50 sleeping rooms or transportation terminal facility	-	-	-	-	-	S	P	P	P	-	P	P	P	G
13. Wall, fence or similar enclosure, provided that it is:														
a. Not more than 7 feet in height, provided it does not interfere with traffic circulation	P	P	P	P	P	P	-	-	-	-	-	-	-	None
b. No height restriction, provided it does not interfere with traffic circulation	-	-	-	-	-	-	P	P	P	P	P	P	P	None
14. Up to 3 lodging units in an existing dwelling	-	-	-	-	P	P	S	S	S	S	S	-	-	B
14A. One lodging unit housing up to 3 persons in an existing dwelling	-	S	S	S	P	P	S	S	S	S	S	-	-	B
15. Accessory storage of a fluid other than water or gas	S	S	S	S	S	S	S	S	S	S	S	S	S	None
16. Accessory signs, subject to the provisions of Article VII	P	P	P	P	P	P	P	P	P	P	P	P	P	None
17. Accessory off-street parking and loading spaces as required in Article VIII, not to exceed 4 spaces	P	P	P	P	P	P	P	P	P	P	P	P	P	None
18. Accessory off-street parking and loading spaces as required in Article VIII in excess of 4 spaces	S	S	S	S	S	S	S	S	S	S	S	S	S	None
19. Public/private utility cabinets. The Board of Appeals may grant a special permit in the side or rear yard setback provided sufficient screening and buffers are provided to protect the integrity and character of the area. Screening and buffers may be of structure or natural material or any combination thereof. Cabinets shall not exceed a total height of 7 feet.	S	S	S	S	S	S	S	S	S	S	S	S	S	None
20. Wireless communications service facility	S	S	S	S	S	S	S	S	S	S	S	S	S	None

NOTES:  
1. In the BA-1, BA-2, and BB-1 Districts, the Planning Board may authorize a special permit for multifamily housing. Refer to Sections 235-65 and 235-66.

**Table of Use and Parking Regulations**  
**City of Melrose**

- 2. Mixed residential/business uses shall allow use categories as permitted in the Table of Use and Parking Regulations.
- 3. Not to be applied to garage space.
- 4. Medical offices may be allowed in the BA-2 District by special permit, but are not permitted as a ground floor use.



Table of Dimensional and Density Regulations City of Melrose												
District	Use	Minimum Lot Area (Square feet) or as noted	Minimum Frontage and Lot Width (feet)	Minimum Lot Depth (feet)	Yards			Maximum Height (feet)	Maximum Stories	Maximum Coverage	Maximum Floor Area Ratio	Minimum Open Space
					Front (feet)	Side (feet)	Rear (feet)					
SR	Any permitted use	25,000	110	90	25	20	50	35	2 ½	35%	None	50%
SR-A	Any permitted use	15,000	100	90	25	15	40	35	2 ½	35%	None	50%
SR-B	Any permitted use	10,000	80	90	20	12	30	35	2 ½	35%	None	40%
UR-A	Townhouse	7,500 per dwelling unit	100	90	20	10 <sup>1</sup>	20	35	2 ½	35%	None	35%
	Two-family dwelling	13,500	100	90	20	10 <sup>1</sup>	20	35	2 ½	35%	None	35%
	Single-family dwelling	7,500	75	90	20	10	20	35	2 ½	35%	None	35%
	Any other permitted use	10,000	100	90	20	10	20	35	2 ½	35%	None	35%
UR-B	Single-family dwelling	7,500	75	90	20	10	15	35	2 ½	50%	None	30%
	Two-family and multi- family dwelling uses and townhouses	7,500 plus 3,000 for each dwelling unit more than one	100	90	20	10 <sup>1</sup>	15	35	2 ½	50% <sup>2</sup>	None	30%
	Any other permitted use	10,000	100	90	20	10 <sup>1</sup>	15	35	2 ½	50%	None	20%
UR-C UR-D	Two-family and multi- family dwelling uses and townhouses	6,000 plus 1,250 for each dwelling unit more than one	100	90	20	10 <sup>1</sup>	15	50	4	50%	1	20%
	Any other permitted use	7,500	75	90	20	10	15	50	4	50%	1	20%
	Nursing home	20,000	100	90	20	10	15	50	4	50%	None	30%
BA BA-1	Any permitted use	5,000	50	90	None <sup>4</sup>	None	None	50	4	None	2.0	5%
BA-2	Any permitted use	5,000	50	90	None <sup>4</sup>	None	None	50	4	None	2.0	5%
BB BB-1	Any permitted use	10,000	100	90	10	12	15	30	2	60%	.75	20%
BC	Any permitted use	5,000 <sup>3</sup>	50	90	5	None	None	30	2	None	.75	10%
BD	Any permitted use	5,000 <sup>3</sup>	50	90	15	None	10	80	8	None	2.0	5%
	Nursing home	20,000	100	90	20	10	15	50	4	50%	None	30%
I	Any permitted use	20,000	125	100	30	20	30	50	4	25%	2.0	30%

Notes:

- 1 One side only for side-by-side two-family dwelling units; outside for semi-detached row unit.
- 2 Where off-street parking spaces required by Article VIII of this chapter are located underground and under the building served by the parking, the maximum building coverage may be increased above the percentage limit set forth in this table. This increase shall represent an increase in building area up to the area of the parking spaces which are put underground.
- 3 For mixed uses, the minimum lot area shall be increased by 1,000 square feet for each dwelling unit.
- 4 The maximum front yard shall be 5 feet.