

**Planning Board  
Town of Great Barrington  
Public Hearing**

**Thursday, March 25, 2021**

The Great Barrington Planning Board will hold a public hearing pursuant to MGL Ch. 40A, s. 5, on Thursday, March 25, 2021 at 6:00 PM, via Zoom remote video/teleconference webinar, to provide an opportunity to comment on the following proposed changes to the Zoning Bylaw and/or the Zoning Map:

1. Citizen Petition: Amend Section 7.18 which regulates marijuana establishments
2. Citizen Petition: Amend the Table of Use Regulations to allow marijuana establishments by Special Permit in I-2 zones
3. Citizen Petition: Amend the Zoning Map and Section 9.11 to rezone portions of the MXD district to an R-3 district
4. Planning Board proposal: Amend the Downtown Business Mixed Use B-3 district regulations

A copy of the proposed amendments may be reviewed on the town website [www.townofgb.org](http://www.townofgb.org) or in the Town Clerk's office at Town Hall.

Any person wishing to be heard on these matters should attend the Hearing or submit comments in writing prior to 4:00 PM the day of the hearing.

To attend the Hearing on March 25, 2021 via Zoom, please click the link below:

<https://us02web.zoom.us/j/82113917043?pwd=SFY0ZlIQZk5jeDRQbIRxWC9IcS9MZz09>

Passcode: 202886

To dial in by phone, dial +1 929 205 6099.

Webinar ID: 821 1391 7043

Passcode: 202886

The agenda of the Public Hearing will be posted on the town website [www.townofgb.org](http://www.townofgb.org) at least 48 hours prior to the hearing date. To contact the Planning Department, email [crembold@townofgb.org](mailto:crembold@townofgb.org) or call 413-528-1619.

Item 1

# TOWN MEETING - CITIZEN'S ARTICLE

DATE and TIME this paper received by Registrars  
 2/25/21  
 12:20 pm JLM

We the undersigned submit this citizen's petition to the voters of the Town of Great Barrington:

To see if the Town will vote to amend sections 7.18.4 and 7.18.5 of the Great Barrington Zoning bylaw **7.18 Marijuana Establishments and Medical Marijuana Treatment Centers** and modify section 3.1.4 Table of Uses accordingly or to take any other action relative thereto.

*Purpose of the Amendment:* The undersigned propose this amendment in response to the concerns expressed by some residents in numerous public meetings and forums as to the negative impacts of marijuana businesses in our community, particularly those located or proposed to be located in or near our residential neighborhoods.

Our Master Plan states, "Great Barrington's vision includes protecting and enhancing our compact village centers, historic treasures, natural resources, farms, and open spaces, all of which contribute to Great Barrington's distinctive character.

Our goals include directing development and growth into the village centers, supporting existing residential neighborhoods, and ensuring that new developments in resource areas are sited and built in a way that sustains our rural countryside and agricultural areas." (Continued on Reverse)

**SIGNERS' STATEMENT** We are qualified voters of the Commonwealth of Massachusetts and of the Town of Great Barrington.

**INSTRUCTIONS TO SIGNERS:**

Your signature should be written as substantially as registered. If you are prevented, by physical disability, from writing you may authorize some person to write your name and residence in your presence.

C h e c k	I	II	III		PRINTED NAME
	Signatures to be made in person with name substantially as registered (except in case of physical disability as stated above)	Now Living At (Street and Number)	W a r d	P r e c	
1	<input checked="" type="checkbox"/> Patricia L. Costa	24 SILVER ST APT A-6	0	1	PATRICIA L. COSTA
2	<input checked="" type="checkbox"/> Barbara F. Matz	22 Mahaiwe St.	0	1	Barbara F. Matz
3	<input checked="" type="checkbox"/> Elyhe Matz	22 Mahaiwe St.	0	1	Elyhe Matz
4	<input checked="" type="checkbox"/> Michael J. Kenan	12 Mahaiwe	0	1	Michael J. Kenan
5	<input checked="" type="checkbox"/> Carol McGlinchey	10 Beacon Hill	0	1	CAROL MCGLINCHEY
6			0	1	
7			0	1	
8			0	1	
9			0	1	
10			0	1	
11			0	1	
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16			0	1	
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18			0	1	
19			0	1	
20			0	1	

**Instructions to Registrars**

You must time-stamp or write in date and time these papers are received.

N no such registered voter at that address



# TOWN MEETING - CITIZEN'S ARTICLE

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	I	II	III	W	P	
	Check	Signatures to be made in person with name substantially as registered (except in case of physical disability as stated above)	Now Living At (Street and Number)	ard	rec	PRINTED NAME
1	✓	Michelle M. Loubert	70 Division St.	0	1	Michelle M. Loubert
2	✓	Travis Forbes	325 North Plain Rd	0	1	TRAVIS FORBES
3	✓	Terese Gasparro	325 North Plain Rd	0	1	TERESE GASPARRO
4	✓	Denise Forbes	325 N Plain Rd	0	1	Denise Forbes
5	✓	Samantha Gasparro	325 North Plain Rd	0	1	Samantha Gasparro
6	✓	Bruce A. Loubert	70 Division St.	0	1	Bruce A. Loubert
7	✓	Karin J. Passmore	317 N. Plain Rd.	0	1	Karin J. Passmore
8	✓	Toby Stanton	69 Division St	0	1	Toby Stanton
9	✓	Anna Stanton	69 Division St	0	1	Anna Stanton
10	✓	Garfield C Reed	107 Castle Hill Dr	0	1	Garfield C Reed
11				0	1	
12				0	1	
13				0	1	
14				0	1	
15				0	1	
16				0	1	
17				0	1	
18				0	1	
19				0	1	
20				0	1	

**Instructions to Registrars**

You must time-stamp or write in date and time these papers are received. No such registered voter at that address.

1. No Marijuana Establishment or Medical Marijuana Treatment Center may be located closer than ~~400~~ 500 feet from a pre-existing public or private school, providing education in kindergarten or any of grades 1 through 12 child care facility, including preschools and daycare centers, or any facility in which children commonly congregate, including, but not limited to, a public library, a playground or park, an athletic field or recreational facility, a place of worship, or a town-owned beach.
2. The distance in paragraph 1 is to be measured in a straight line from the nearest point of the property line of the proposed Marijuana Establishment or Medical Marijuana Treatment Center and the nearest point of the property line of the protected uses stated above in paragraph 1.
3. The Selectboard may, by special permit pursuant to Section 10.4, authorize a deviation from this distance requirement if it finds the Marijuana Establishment or Medical Marijuana Treatment Center will not be detrimental to a protected use.
4. No Marijuana Establishment or Medical Marijuana Treatment Center will be allowed in any Residential District as described in Section 2.0 of the Zoning Bylaws.
4. 5. Other types of marijuana establishments licensed by the Massachusetts Cannabis Control Commission may be permitted in accordance with the appropriate use category in the Table of Use Regulations.

2. *Amend portions of Section 7.18.5 as follows:*

**7.18.5 Physical Requirements.** In addition to pertinent requirements of implementing regulations of the Massachusetts Cannabis Control Commission, Marijuana Establishments and Medical Marijuana Treatment Centers shall comply with the following.

1. All aspects of a Marijuana Establishment or Medical Marijuana Treatment Center relative to the acquisition, cultivation, possession, processing, sales, distribution, dispensing, or administration of marijuana, products containing marijuana, marijuana accessories, related supplies, or educational materials shall take place at a fixed location within a fully enclosed building or fenced area dedicated to the cultivation of marijuana and shall not be visible from the exterior of the business.
2. No unprotected storage of marijuana, related supplies, or educational materials is permitted.
3. No use shall be allowed by a Marijuana Establishment or Medical Marijuana Treatment Center which creates a nuisance to abutters or the surrounding area, or which creates any hazard, including but not limited to fire, explosion, fumes, gas, smoke, odors, obnoxious dust, vapors, offensive sound or vibration, flashes, glare, objectionable effluent or electrical interference, which may impair the normal use and peaceful enjoyment of any property, structure or dwelling in the surrounding area.
4. No odor from marijuana or its processing can be detected by a person with an unimpaired and otherwise normal sense of smell at the exterior of a Marijuana Establishment or Medical Marijuana Treatment Center or at any adjoining use or property.
5. No noise from the establishment or its operations, including but not limited to ventilation, can be detected by a person with unimpaired and otherwise normal hearing at the exterior of a Marijuana Establishment or Medical Marijuana Treatment Center or at any adjoining use or property.
6. Marijuana Establishments or Medical Marijuana Treatment Centers with grow operations in a translucent building shall not illuminate grow operations between dusk and dawn.
3. 7. Marijuana not grown inside a securable structure shall be enclosed within a six (6) foot fence, and inasmuch as possible the plants shall be screened from view, at grade, from a public way or from a protected use.
4. 8. Excluding outdoor home cultivation, no outdoor cultivation of marijuana shall be allowed within fifty (50) two hundred (200) feet of any property line.
9. No outdoor home cultivation of marijuana shall be allowed within (50) feet of any property line.

# Item 2



# The Commonwealth of Massachusetts

DATE and TIME this paper received  
by Registrars.  
11/30/2020 12:40pm  
Katherine Conolly

## PETITION

Pursuant to General Laws, Chapter 39, section 10.

TOWN GREAT BARRINGTON

### SUBJECT OR SUBJECTS REQUESTED FOR ACTION AT THE MEETING:

(To be filled in by petitioners. If space is insufficient, attach additional page of description to each petition form, before signatures are gathered.)

We the undersigned, seek a zoning change to the i2 zoning district.

Under use regulations 3.0c section 13(marijuana establishment and manufacturing) in the i2 zone. The current zoning is listed as a no. we would ask the planning board to change this to a SB zone.

SIGNER INFORMATION

#### INSTRUCTIONS TO SIGNERS

For your signature to be valid, you must be a registered voter in the town and your signature should be written substantially as registered. Do NOT sign more than one petition for the same subject.

If you are prevented by physical disability from writing, you may authorize some person to write your name and residence in your presence.

If you have NOT moved since January 1 of this year, you need complete only columns I and II.

If you HAVE moved since January 1 of this year, you must complete columns I, II and III.

#### SIGNER'S STATEMENT

We, the undersigned, are qualified voters of the Town of GREAT BARRINGTON and in accordance with the provisions of law, request a special town meeting for the purposes above.

CHECK	I SIGNATURES to be made in person with name substantially as registered.	II NOW LIVING AT (Street & number, if any)	PREC.	III RESIDENCE ON JANUARY 1, If different (Street & number, if any)(City or town)
1	✓ Sean McNamee	5 Maplewood Ave GB.		
2	✓ Tracey McNamee	5 Maplewood Ave GB.		
3	✓ [Signature]	26 Linda Lane GB		
4	✓ [Signature]	26 Linda Lane GB		
5	✓ [Signature]	3 MEADOW LANE GB		
6	✓ Robert Smith	33 North St. GB		
7	✓ [Signature]	16 Pine St GB		
8	✓ Daniel P. Higgins	125 State Road GB		
9	✓ [Signature]	27 Edin View GB		
10	✓ [Signature]	27 Edin View GB		
11	✓ [Signature]	10 Maple St GB		
12	✓ [Signature]	29 Paul St GB		

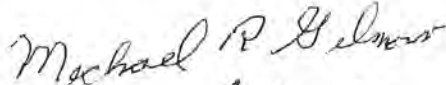

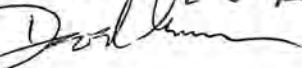
ATTENTION REGISTRARS: Before certifying signatures, see Instructions to Registrars on reverse side of this paper.

**1/28/2020**

**We the undersigned, seek a zoning change to the i2 zoning district.**

**Under use regulations 3.0c section 13(marijuana establishment and manufacturing) in the i2 zone. The current zoning is listed as a no. we would ask the planning board to change this to a SB zone.**

**Thank you for your consideration**

**Michael R Gilmore**   
**Michael P. Gilmore**   
**David A. Gilmore** 

**Owners of property..  
115 Gas House Lane  
Great Barrington Mass 01230**



# Item 3

**TOWN MEETING - CITIZEN'S ARTICLE**

DATE and TIME this paper received by Registrars  
 1/31/20 2:37 pm  
 JLM

To ask Town residents to vote to amend Zoning Bylaw §9.11 as set forth below, and to amend the Zoning Map accordingly:

1. Amend a portion of Section 9.11, Mixed Use Traditional Zone (MXD), as follows:

9.11.2 Location. The MXD shall consist of the land shown on the 2015 2016 Town of Great Barrington Assessors' Map 22 as Parcels 2, 3A, 4-13 4-6, 18-63 63, 66-88 66-72, 81-88, 88A, and on Map 25 as Parcels 1-4.

2. Amend the Zoning Map by placing the following parcels in a R3 zone, as follows: the land shown on the 2016 Town of Great Barrington Assessors' Map 22 as Parcels 7-13, 18-62, 73-80.

[Continued on the reverse side]

SIGNERS' STATEMENT We are qualified voters of the Commonwealth of Massachusetts and of the Town of Great Barrington.

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Your signature should be written as substantially as registered. If you are prevented, by physical disability, from writing you may authorize some person to write your name and residence in your presence.

	C h e c k	i Signatures to be made in person with name substantially as registered (except in case of physical disability as stated above)	ii Now Living At (Street and Number)	iii		PRINTED NAME
				W a r r e d	P r e c	
1		<i>Dorothy M Federolf</i>		0	1	
2		<i>Dorothy M Federolf</i>	<i>20 Mainville St</i>	0	1	<i>DOROTHY M FEDEROLF</i>
3				0	1	
4		<i>Barbara F Matz</i>	<i>22 Mohaiwe Street</i>	0	1	<i>Barbara F. Matz</i>
5				0	1	
6		<i>Renee Hungerford</i>	<i>507 Main St. Apt. 1</i>	0	1	<i>Renee Hungerford</i>
7				0	1	
8		<i>Kevin Brenner</i>	<i>507 main st</i>	0	1	<i>Kevin Brenner</i>
9		<i>Monica B</i>	<i>507 Main St.</i>	0	1	<i>Monica Bossinger</i>
10				0	1	
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20				0	1	

*Michael Kernan*

*413-645-3434*

**Instructions to Registrars**

You must time-stamp or write in date and time these papers are received.

Check this  against the name of qualified voter to be certified. For names not certified, use the codes opposite.

- N no such registered voter at that address
- S unable to identify signature or address, or illegible.
- W wrong district or community.
- T already signed this petition.

(at least three Registrars= names n

**CERTIFICATION OF SIGNATURES**

We certify that ( ) signatures checked this  are names of voters of the Town of Great Barrington and are qualified to sign this petition.

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

***Purpose of the Amendment:*** At the 2016 Annual Town Meeting the Town Planning Board put through a proposal that created the MXD zone. The stated purpose of the 2016 proposal cites “the recommendations of the 2013 Master Plan to update the zoning in certain commercial areas within walking distance of a village center, to preserve and enhance the mix of residential and retail uses, and to reflect the context of the built fabric.” This MXD zone does not accomplish its stated purposes. It joins together two drastically different neighborhoods: the Mahaiwe Triangle (mostly residential parcels on Pope, Mahaiwe and Manville Streets, and 14 residential parcels along nearby Main Street) with commercial parcels west of Maple Avenue and south of Manville Street. The Mahaiwe Triangle is not a commercial area; it consists of one-family residences 60-120 years old with a smattering of houses legally converted into two-family and professional space.

As two separate pending lawsuits are demonstrating, this MXD zone has created a loophole by which land developers are acting without any effective zoning regulations. By examining the Table of Use Regulations in Zoning Bylaw §3.1.4 and the Schedule of Dimensional Requirements in Zoning Bylaw §4.1.2, it is appropriate to place the Mahaiwe Triangle in a R3 zone.

	Min lot	width	front	side	rear	Bldg %	story	Height
R3	5000	50	25	10	30	25	2.5	35
B2	43,560	50	50	20	30	25-40	2.5	35
MXD	5000	50	15	10	10	75	3.5	40

# Item 4



**Article \_\_\_\_\_ : Downtown Business Mixed Use B-3 district**

*Purpose of the Amendment:* These amendments will update the B-3 zone, which was adopted in 2007 in order to stimulate development at two large, abandoned sites – the former Searles-Bryant school and the Log Homes property – both on Bridge Street.

While well intentioned and aspirational in nature, in fact, the B-3 zone has not served its primary purposes. The current regulations are a set of design controls, open space and affordable housing bonus provisions, and onerous parking requirements, all wrapped into a complicated special permit process. The B-3 zone also included several lots on Church and School Street, none of which is large enough to lend itself to the sort of transformative development that the B-3 was designed to encourage; unfortunately, the B-3 could be used in a way to demolish small existing buildings in order to build new.

Fifteen years since its passage, both of the key campus sites have been partially developed, and permits are in place that would enable more development to be completed. Bryant was saved and reused, and Searles is permitted to be saved and reused. Affordable housing was built on the Log Homes site and will be occupied by the time of the 2021 Annual Town Meeting, and riverfront open space has been preserved for public enjoyment on both sides of the River. The forward progress in this zone has come not because of the B-3 zone provisions but despite them.

The Planning Board proposes to update the regulations to clarify the purpose of the zone and significantly streamline the development process.

*Proposal:* To see if the Town will vote to amend Sections 9.4, 3.1.4 (Table of Use Regulations) and 11 (Definitions), of the Zoning Bylaw as set forth below.

Proposed additions are underlined  
Proposed deletions are ~~struck through~~

## **9.4 DOWNTOWN MIXED-USE B3 DISTRICT**

**9.4.1 Purpose.** The Downtown Mixed-Use B3 District is a transitional area between the downtown business core and ~~the~~ residential neighborhoods. It is designed to protect the traditional character of these respective areas, ~~and~~ to assist in revitalizing, ~~preserving, and expanding~~ the larger tracts of former industrial land in this area, and to allow parcels to contain a mix of uses, either vertically or horizontally, to promote a variety of housing and business opportunities. ~~character of the traditional downtown core. The district is designed to enhance the downtown by providing a pleasing mix of land uses that work together and result in a lively, prosperous town center, that serves as an attractive place to live, work, shop, and recreate. Mixed uses may occur vertically or horizontally. Development and redevelopment in the district is intended to respect the traditional scale, massing, and character of the downtown.~~ The district is intended to foster the redevelopment of existing buildings or redevelopment that is scaled and massed in a manner that

creates a positive pedestrian environment with active pedestrian amenities. Specific objectives of the Downtown Mixed-Use District are to:

1. Allow for different types of compatible land uses close together or in the same building to encourage pedestrian and public transit travel and reduce the use of personal automobiles;
2. Encourage infill and redevelopment of commercial, residential, and mixed-use development while preserving and enhancing the overall character of the district;
3. ~~Allow flexibility in development standards in recognition of the challenge of developing~~ Encourage the development of small scale mixed-use buildings;
4. Encourage shared parking to promote a compact walkable town center, maximize pedestrian safety, and minimize the number of curb cuts.
5. ~~Maintain or increase the supply of affordable dwelling units.~~

**9.4.2 Location.** The Downtown Mixed-Use B-3 District is shown on a map entitled "Proposed B3 District," which is hereby incorporated into the Zoning Bylaw, and includes the following land as shown on the 2006 Great Barrington Assessors' Maps:

Map 19	Parcels 118, 119, 120, 121, 127, 128, 130, 135A, 136, 137, 138, 138A, and 139
Map 20	Parcels 2, 5, 8, 8A, 12, 12A, 13, 14, 15, 16, 17, and 61

~~**9.4.3 Definitions.** For the purposes of this Section, the terms defined in Section 11, "Downtown Mixed Use B3 District" shall apply.~~

**9.4.43 Permitted Uses.** Permitted uses in the Downtown Mixed-Use B3 District are enumerated in Section 3.1.4, the Table of Use Regulations. The permitted uses are intended to promote multifamily residential uses, mixed uses and compatibility between residential and nonresidential uses.

Projects that incorporate both multifamily residential uses or assisted living facilities with any of the following non-residential uses, where at least 25% of the street-level floor space is utilized for these non-residential uses, shall be considered Mixed Use for this district, and shall be permitted by-right, subject to Site Plan Review, notwithstanding the permissions set forth for any individual use in Section 3.1.4:

- (1) Offices, including medical offices
- (2) Retail stores, including banks, but excluding stores and establishments with drive-through windows
- (3) General service establishments and/or personal service establishments

- (4) Bakeries and/or artisan food or beverage producers
- (5) Restaurants and cafes, indoor or outdoor
- (6) Community, education, or recreational uses, including museums, parks, playgrounds, health clubs and gym/fitness centers
- (7) Municipal buildings and facilities.

**9.4.54 Dimensional Requirements.** Dimensional requirements in the Downtown Mixed-Use B3 District shall be as set forth in Section 4.0. ~~The dimensional requirements reflect the proximity to downtown.~~

~~1. The maximum number of dwelling units permitted by right shall be based on a minimum area of 2,500 square feet of land per dwelling unit, except that one two family dwelling may be permitted on a lot of at least 5,000 square feet. The minimum area of land required per dwelling unit may be reduced through incentives described in this section and granted by special permit.~~

~~**9.4.6 Open Space.** The Minimum open space required shall be 20% of the total lot area, subject to reduced requirements earned through incentives described in this section and granted by special permit. For the purpose of this section, "open space" shall be defined as yards, playgrounds, walkways and other areas not covered by parking and driveways; such open space need not be accessible to the public.~~

~~**9.4.75 Parking.** Parking requirements for residential dwelling units shall be one parking space for each unit. No parking space shall reduce the effective width of a driveway providing access to more than one dwelling unit to less than 12 feet. In the event the parking spaces cannot be provided on the property, deviation from this requirement may be permitted in accordance with Section 6.1.9. The off-street parking requirements in Section 6.1 shall not apply in the B-3 except as provided in this section. Off-street parking requirements in the B-3 shall be as follows:~~

- ~~1. For new buildings, required off-street parking spaces shall not be located within the front yard area.~~
- ~~2. Only one space shall be required for any dwelling unit, whether in residential-only or in mixed-use buildings.~~
- ~~3. For permitted uses in existing buildings (those in existence as of May 1, 2021) that are not substantially expanded, the existing parking spaces shall be retained, but no new spaces shall be required. A substantial expansion is defined, for the purpose of this section, as one which involves increasing the gross floor area of a structure by more than 25% or 500 square feet, whichever is less.~~
- ~~4. For permitted uses in new buildings or existing buildings that are substantially expanded, as defined in this section, or for any building greater than 5,000 square feet gross floor area, parking is required as follows:
  - ~~(a) one parking space shall be required for each dwelling unit;~~
  - ~~(b) the parking requirements for business or industrial uses in Section 6.1.2 through 6.1.6 shall be calculated as follows: the sum of the required parking for each use multiplied by 0.5 with the product rounded down to the nearest whole number, plus~~~~

handicapped parking as may be required by law or building code (Example: 3 spaces required for retail, 4 spaces required for offices:  $(3 + 4) \times 0.5 = 3.5$ , so 3 spaces, + 1 handicapped space, = 4 spaces are required); and

5. The parking requirements of paragraphs 2, 3, or 4 of this section may be waived if the SPGA grants a special permit pursuant to section 6.1.9.

**9.4.86 Site Plan Review.** ~~All redevelopment and development on a parcel or parcels in excess of 10,000 square feet of land~~ shall be subject to site plan review by the Planning Board. No building permit for such a development shall be issued by the Building Inspector until the Planning Board has conducted site plan review in accordance with Section 10.5.

**9.4.97 Special Permit.** Uses indicated in the Table of Use Regulations, ~~and any development or redevelopment in excess of 20,000 square feet of gross floor area, regardless of use,~~ shall require a special permit. ~~A special permit shall be required for any project seeking to use the density or open space incentives defined in this section.~~ The ~~Selectboard~~ SPGA may grant a special permit in accordance with the provisions of Section 10.4.

~~**9.4.10 Development Incentives.** To encourage specific attributes of development beneficial to the Town, the following incentives are offered by special permit.~~

~~1. Incentives for mixed use. Due to the proximity of this B3 District to the downtown core, and to promote the public enjoyment of development in this district, the following incentives are offered to promote mixed use, affordable housing, community supporting activities, river appreciation and community open space. Uses may simultaneously qualify for one or more incentives defined in this subsection.~~

~~2. Density incentives reduce land area per dwelling unit as set forth in Section 9.4.5. The maximum density incentive is a 50% reduction in required land area per dwelling unit.~~

~~a. Mixed use: for each 1,000 square feet of nonresidential use, reduce the minimum land area required per unit by 1%.~~

~~b. Affordable housing: for each unit of affordable housing reduce the minimum land area required by 5%.~~

~~c. Density incentives are cumulative.~~

~~3. Open space incentives reduce total open space requirements as set forth in Section 9.4.7. The maximum open space incentive is a 50% reduction in total open space requirement.~~

~~a. Community supporting activity: for the first use that the SPGA certifies as a legitimate community supporting activity, reduce the minimum open space required per unit by 5%. For additional uses occupying at least 1,000 square feet that the SPGA certifies as a legitimate community supporting activity, reduce the minimum open space required per unit by 5% for each 1,000 square feet. For the~~



~~purpose of this section, a "community supporting activity" is defined as use or ownership by either a nonprofit organization or an educational or arts organization which provides services to the community.~~

~~b. River appreciation: for a nonresidential use that facilitates the public enjoyment of the riverfront, as determined by the SPGA, reduce the minimum open space required per unit up to 15%.~~

~~c. Community open space: for a nonresidential use that allows permanent public access to open space within the development, as determined by the SPGA, reduce the minimum open space required per unit up to 15%.~~

~~d. Open space incentives are cumulative.~~

~~**9.4.11 Affordable Housing.** To promote the development of affordable housing units in the Town. All new residential development in this district containing more than four dwelling units shall contribute to affordable housing.~~

~~1. New construction of more than four and fewer than 10 dwelling units shall include either: A contribution to an established Municipal Affordable Housing Trust Fund to be used for the development of affordable housing in accordance with this Section; or construction and offering of at least one affordable unit within the development in accordance with this Section.~~

~~2. Any project of 10 or more dwelling units shall designate 10% of the units within the development as affordable units, and includes a contribution to the Municipal Affordable Housing Trust fund for fractional units as defined herein~~

~~The Building Inspector shall not issue a building permit or the SPGA shall deny any application for a special permit for development or redevelopment under this section if the applicant does not comply with the following requirements:~~

~~1. For construction of 10 units or any multiple of 10, one of each 10 units shall be an affordable unit. For each unit sold prior to provision of the required affordable housing units, a performance security, in the amount of 3.5% of the sales price of each unit, shall be placed in escrow to be held by the Municipal Affordable Housing Trust Fund. Such contributions to escrow shall be made at time of closing for each unit sold and shall be returned to the developer in proportion to the completion of the affordable housing units. For purposes of this section, "completion" means a certificate of occupancy under the State Building Code has been issued.~~

~~2. When the total number of units is not evenly divisible by 10, applicants under this section shall either:~~

~~a. Construct one additional affordable unit in addition to those required pursuant hereto; or~~

~~b. Contribute, at time of closing, 3.5% of the sales price of each fractional unit to the Municipal Affordable Housing Trust Fund. Fractional units are determined as follows:~~

~~1. For construction of more than four but less than 10 dwelling units, the number of fractional units is the total number of units.~~

~~2. For construction of more than 10 units or any multiple of 10, the number of fractional units is determined by subtracting the largest multiple of 10 from the total number of units.~~

~~3. Income and asset limits for purchasers or renters: To ensure that only eligible households purchase or rent affordable housing units, the purchaser or renter of an affordable unit shall be required to certify that his/her annual income does not exceed 80% of the area wide median household income adjusted for household size, as determined by the United States Department of Housing and Urban Development ("HUD") and using HUD's rules for attribution of income to assets, as may be revised from time to time.~~

~~4. The maximum housing cost for affordable units created under this section shall be as set forth in the Local Initiative Program Guidelines of the Massachusetts Department of Housing and Community Development ("DHCD"), dated November 2006, or as subsequently amended.~~

~~5. Preservation of affordability. Each affordable unit created in accordance with this section shall have limitations governing its resale. The purpose of these limitations is to preserve the long term affordability of the unit and to ensure its continued availability for low and moderate income households.~~

~~6. The developer or redeveloper of any project under this section shall execute and properly record a LIP Regulatory Agreement and Deed Rider in the form required under the Local Initiative Program Guidelines, which constitute "affordable housing restrictions" as defined in G.L. c. 184, s. 31, and provide for affordability in perpetuity.~~

~~7. The purchaser of any affordable unit under this section shall execute and properly record an Affordable Housing Deed Rider for Projects in Which Affordability Restrictions Survive Foreclosure, or as it may be subsequently amended, in the form used for so-called Local Action Unit (LAU) homeownership projects under the regulations of the DHCD. This deed rider establishes the formulas for maximum resale price, and provides an option to purchase to the municipality if an eligible purchaser cannot be found.~~

~~**9.4.12 Affordable Housing; Specific Requirements.** The purpose of this subsection is to provide for the development of affordable units in compliance with various initiative programs developed by state and local government. This subsection does not apply to construction of four or fewer dwelling units on the same lot. Provided that there are more than four dwelling units in a~~

~~development subject to this Section, at least 10% of the units shall be established as affordable units:~~

- ~~1. Affordable housing units shall be constructed and made available for occupancy coincident with and in proportion to the development of market rate units.~~
- ~~2. All affordable units shall be situated within the development in no less desirable locations than market rate units in the development;~~
- ~~3. All affordable units shall be no less accessible to public amenities, such as open space, than the market rate units;~~
- ~~4. All affordable units shall be integrated with the rest of the development;~~
- ~~5. All affordable units shall be compatible in design, appearance, construction and quality of materials with other units; interior features of affordable units shall comply in all respects to the minimum design and construction standards set forth in Section III of the Local Initiative Program Guidelines cited below.~~

~~**9.4.13 Affordable Housing Units; Marketing Plan.** Applicants under this section shall submit a marketing plan to the Building Inspector or SPGA for approval, which describes how the affordable units will be marketed to potential home buyers or tenants. This plan shall include a description of the lottery or other process to be used for selecting buyers or tenants and shall comply with all applicable provisions of state law regarding marketing of, and tenants or buyer selection for, affordable units.~~

- ~~1. Local preference shall be given to the maximum extent permitted by law.~~





Permitted Use		ZONING DISTRICT <sup>1</sup>														ADDITIONAL APPLICABLE REGULATIONS	
		R1A	R1B	R2	R3	R4	B	HVC	B1	B2	B2A	B2X	B3	MXD	I		I2
(4)	Clubhouses or fraternal lodges not conducted for profit	SB	SB	SB	SB	SB	SB	SB	SB	SB	SB	SB	SB	SB	SB	SB	
(5)	Commercial amusements, fairgrounds	N	N	N	N	N	SB	SB	N	SB	N	N	<del>NSB</del>	SB	SB	SB	
(6)	Community center operated by a municipal or private not-for-profit organization	SB	SB	SB	SB	SB	SB	SB	SB	SB	SB	SB	SB	SB	SB	SB	
(7)	Educational use, exempt	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	
(8)	Educational use, nonexempt	N	N	SB	N	SB	SB	SB	N	SB	SB	SB	SB	SB	SB	SB	See also <a href="#">7.6</a>
(9)	Golf or country clubs	N	N	SB	N	SB	N	N	N	N	SB	N	N	N	SB	SB	
(10)	Hospitals, sanitariums, nursing or convalescent homes or philanthropic institutions, provided that no principal building so used shall be within 50 feet of any lot line	N	N	SB	N	SB	SB	SB	N	SB	SB	SB	SB	SB	SB	SB	See also <a href="#">8.10</a> .
(11)	Municipal parks and playgrounds, including recreational buildings therein	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	
(12)	Public libraries, public museums, municipal buildings and facilities	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	
(13)	Riding stables on less than 5 acres, provided that any buildings or structures are set back not less than 50 feet from any lot line	N	N	SB	N	SB	SB	N	N	SB	SB	N	N	N	SB	SB	
(14)	Ski tows, provided that	N	N	SB	N	SB	SB	N	N	SB	N	N	N	N	SB	SB	



Permitted Use		ZONING DISTRICT <sup>1</sup>														ADDITIONAL APPLICABLE REGULATIONS	
		R1A	R1B	R2	R3	R4	B	HVC	B1	B2	B2A	B2X	B3	MXD	I		I2
	any buildings or structures are set back not less than 50 feet from any lot line																
(15)	Summer camps operated for children on sites not less than 10 acres in area	N	N	SB	N	SB	N	N	N	N	SB	N	N	N	N	N	
(16)	Use of land or structures for religious purposes	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	
<b>C. Office, retail and consumer service establishments</b>																	
(1)	Banks and other financial institutions	N	N	N	N	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	
(2)	Fast-food eating establishments	N	N	N	N	N	SB	SB	N	SB	N	SB	N	SB	N	N	See also <a href="#">7.7</a> , <a href="#">7.9</a>
(3)	Fuel storage and sales, excluding motor vehicle fuel stations	N	N	N	N	N	SB	N	N	SB	N	N	N	SB	SB	SB	
(4)	Garages, public	N	N	N	N	N	SB	SB	N	SB	N	SB	SB	SB	SB	SB	See also <a href="#">9.7</a>
(5)	Garden centers, including associated landscaping services	N	N	N	N	N	SB	Y	N	Y	Y	Y	Y	Y	Y	Y	
(6)	General service establishment	N	N	N	N	N	Y	Y	N	Y	N	Y	SB	Y	Y	Y	
(7)	Greenhouses, commercial, on less than 5 acres, provided that no heating plant for a greenhouse shall be within 50 feet from any side or rear lot line	N	N	Y	N	Y	SB	Y	Y	Y	Y	Y	Y	Y	Y	Y	
(8)	Hotels	N	N	N	N	N	SB	SB	N	SB	SB	SB	SB	SB	SB	SB	See also <a href="#">7.10</a>
(9)	Institutional administrative offices	N	N	SB	N	SB	SB	SB	SB	SB	SB	SB	SB	SB	SB	SB	See also <a href="#">7.13</a>

Permitted Use		ZONING DISTRICT <sup>1</sup>														ADDITIONAL APPLICABLE REGULATIONS		
		R1A	R1B	R2	R3	R4	B	HVC	B1	B2	B2A	B2X	B3	MXD	I		I2	
	or planned professional office developments or research centers, provided that in R2 & R4 Districts such uses are subject to special requirements																	
(10)	Kennel	SB	SB	SB	SB	SB	SB	SB	SB	SB	SB	SB	SB	SB	SB	SB	SB	See also <a href="#">7.17</a>
(11)	Large-scale commercial development	N	N	N	N	N	Y	SB	SB	SB	N	N	SB	N	SB	SB	See also <a href="#">7.9</a> , <a href="#">7.12</a> , <a href="#">9.6</a>	
(12)	Lumberyards	N	N	N	N	N	SB	N	N	SB	N	N	SB	SB	SB	SB		
(13)	Marijuana Establishment, Retail and Medical Marijuana Treatment Center	N	N	N	N	N	Y	Y	N	Y	N	Y	Y	N	Y	N	See also 7.18.	
	Marijuana Establishment, Cultivation *	N	N	SB*	N	SB*	N	N	N	N	N	N	N	N	SB	N	* Cultivation in the R2 and R4 zones may only be considered on parcels of 5 acres or larger. See also 7.18.	
	Marijuana Establishment, Manufacturing	N	N	N	N	N	N	N	N	SB	N	N	SB	N	SB	N	See also 7.18.	
(14)	Motels or overnight cabins	N	N	N	N	N	SB	SB	N	SB	N	SB	SB	SB	SB	SB	See also <a href="#">7.10</a>	
(15)	Motor vehicle fuel station	N	N	N	N	N	SB	SB	N	SB	N	SB	N	SB	SB	SB	See also <a href="#">7.8</a>	
(16)	Motor vehicle general and body repair	N	N	N	N	N	SB	SB	N	SB	N	SB	N	SB	SB	SB		
(17)	Motor vehicle sales rooms including used car lots	N	N	N	N	N	SB	SB	N	SB	N	SB	N	SB	SB	SB		
(18)	Offices	N	N	N	N	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y		
(19)	Parking lots,	N	N	N	N	N	SB	SB	N	SB	N	SB	SB	SB	SB	SB		

Permitted Use		ZONING DISTRICT <sup>1</sup>														ADDITIONAL APPLICABLE REGULATIONS	
		R1A	R1B	R2	R3	R4	B	HVC	B1	B2	B2A	B2X	B3	MXD	I		I2
	commercial																
(20)	Personal service establishment	N	N	N	N	N	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	
(21)	Professional offices	SB	SB	SB	SB	SB	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	See also <a href="#">7.14</a>
(22)	Restaurants and other places for serving food, other than fast-food eating establishments	N	N	N	N	N	Y	SB <sup>4</sup>	SB	SB	SB	SB	SB	SB	SB	SB	See also footnote 4, below.
(23)	Retail stores or centers and/or wholesale sales and service with total aggregate floor area less than or equal to 20,000 square feet	N	N	N	N	N	Y	Y <sup>5</sup>	Y	Y	SB	Y <sup>5</sup>	Y	Y <sup>5</sup>	Y	Y	See also footnote 5, below.
(24)	Retail stores and shops for custom work or making of articles sold on the premises	N	N	N	N	N	Y	Y	SB	Y	SB	Y	Y	Y	Y	Y	
<b>D. Agricultural uses</b>																	
(1)	Agriculture, as defined by MGL c. 40A, s. 3, on tracts larger than 5 acres, including sales of products raised on premises on stands or structures erected in accordance with front yard setback requirements, provided that soil fertilizer shall be stored not less than 100 feet from any lot line, unless kept in air-tight containers	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	
<b>E. Utilities, communication and transportation</b>																	
(1)	Aviation field, public or private	N	N	N	N	SB	N	N	N	N	N	N	N	N	N	N	See also <a href="#">7.2</a>

Permitted Use		ZONING DISTRICT <sup>1</sup>															ADDITIONAL APPLICABLE REGULATIONS
		R1A	R1B	R2	R3	R4	B	HVC	B1	B2	B2A	B2X	B3	MXD	I	I2	
(2)	Essential services	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	
(3)	Freight terminals, truck or rail	N	N	N	N	N	SB	N	N	SB	N	N	N	SB	SB	SB	
(4)	Low-power FM broadcast radio licensed by FCC																See also <a href="#">7.15</a>
	(a) Studio	N	N	N	N	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	
	(b) Antenna	SB	SB	SB	SB	SB	SB	SB	SB	SB	SB	SB	SB	SB	SB	SB	
(5)	Passenger stations	SB	SB	SB	SB	SB	SB	SB	SB	SB	SB	SB	SB	SB	SB	SB	
(6)	Personal wireless tower or structure as a principal (or accessory) use in the Overlay District, and the initial and any subsequent personal wireless service facility located upon that tower or structure (see Section 9.3 of this Bylaw)																See also <a href="#">9.3</a>
(7)	Solar Energy Systems:																
	Roof-mounted (any size)	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	See also 9.12
	Accessory use, up to 750 sf project area <sup>6</sup>	Y	Y	Y	Y	Y	PB	PB	Y	Y	Y	Y	Y	Y	Y	Y	See note <sup>6</sup> and 9.12
	Accessory use 750 sf project area or larger <sup>6</sup>	PB	PB	Y	PB	Y	PB	PB	Y	Y	PB	PB	Y	Y	Y	Y	See note <sup>6</sup> and 9.12
	Commercial scale	N	N	PB	N	PB	PB	N	N	PB	N	N	PB	N	Y	PB	See also 9.12
<b>F. Industrial, manufacturing and storage uses</b>																	
(1)	Contractor's and Landscaper's yards	N	N	N	N	N	N	N	N	N	N	N	N	SB	Y	Y	
(2)	Gravel, loam, sand and stone removal for commercial purposes	N	N	SB	N	SB	N	N	N	SB	N	N	N	N	SB	SB	See also <a href="#">7.5</a>
(3)	Light manufacturing	N	N	N	N	N	N	SB	N	SB	N	SB	SB	SB	Y	Y	See also <a href="#">6.4</a>
(4)	Saw (log) mill and manufacture of forest products, provided that any saw (log) mill shall be	N	N	N	N	N	N	N	N	N	N	N	N	N	SB	SB	





Permitted Use		ZONING DISTRICT <sup>1</sup>														ADDITIONAL APPLICABLE REGULATIONS	
		R1A	R1B	R2	R3	R4	B	HVC	B1	B2	B2A	B2X	B3	MXD	I		I2
	sod or removal of topsoil, gravel, loam, sand, stone or other earth materials																
(11)	Keeping of horses, for whatever purpose, subject to Board of Health regulations and only on lots of 5 acres or more	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
(12)	Private garage or off-street parking for private automobiles registered at the premises	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
(13)	Swimming pools, inground or aboveground. Pool must be equipped with safety covers, alarms, fencing, or other means of protection as required by the Building Code, so designed and built to restrain entry by unauthorized persons.	Y	Y	Y	Y	Y	SB	Y	SB	SB	SB	Y	<del>SB</del>	Y	SB	SB	
(14)	Wind Energy Generator	SB	SB	SB	SB	SB	SB	SB	SB	SB	SB	SB	SB	SB	SB	SB	SB



**DEFINITIONS (SECTION 11)**

~~**DOWNTOWN B3 MIXED USE DISTRICT:** The following definitions apply in the Downtown Mixed Use B3 District:~~

~~**AFFORDABLE UNITS:** Housing units that are affordable to and occupied by individuals and families whose annual income is less than 80% of the area wide median income as determined by HUD, adjusted for household size and using HUD's rules for attribution of income to assets. Affordability shall be assured in perpetuity through the use of an affordable housing restriction as defined in G.L. c. 184, s. 31. Affordable units shall 1) meet the standards set out in 760 CMR 45.03, Local Action Units, as set forth in 760 CMR 45.00, Local Initiative Program, and further described in the DHCD's Local Initiative Program Guidelines, dated November 2006, or as subsequently amended; or 2) be created as affordable units within an approved MGL c. 40B Comprehensive Permit application. Such units shall be created and restricted so as to be eligible for inclusion, as low or moderate income units, on the Town's Subsidized Housing Inventory as maintained by the DHCD.~~

~~**COMMUNITY SUPPORTING ACTIVITY:**— Activity sponsored by a nonprofit or educational or arts organization that provides services to members of the community either directly (for example, by providing medical services at a reduced cost) or through programs available to community members (for example, by offering theater programs, or classes in which community members may participate).~~

~~**MUNICIPAL AFFORDABLE HOUSING TRUST FUND:** A trust fund established by the Town in accordance with G.L. c. 44, s.55C for the specific purpose of providing for the creation and preservation of affordable housing in the Town for the benefit of low and moderate income households.~~

~~**QUALIFIED PURCHASER:** An individual or family with household income that does not exceed 80% of the area median income, with adjustments for household size, as reported by HUD and the DHCD's Local Initiative Program.~~

~~**QUALIFIED TENANT:**— An individual or family with household income that does not exceed 60% of the area median income, with adjustments for household size, as reported by HUD and the DHCD's Local Initiative Program.~~