

PROPOSED BY-LAW UPTON CENTER BUSINESS DISTRICT (UCBD)

PROPOSE THE FOLLOWING **CHANGES** TO CURRENT BY-LAW

2.1 ESTABLISHMENT. For the purposes of this By-Law, the Town of Upton is divided into the zoning districts set forth below:

- 1) Single Residential A (SRA)
- 2) Single Residential B (SRB)
- 3) Single Residential C (SRC)
- 4) Single Residential D (SRD)
- 5) Agricultural Residential (AR)
- 6) General Business (GB)
- 7) Commercial & Industrial (C&I)
- 8) Municipal Government Facilities (MGF)
- 9) **Upton Center Business District (UCBD)**

Proposed Zoning By-law for Upton Center Business District
Approved by Planning Board at Public Hearing Oct 22 2019

3.1 TABLE OF PRINCIPAL USES. No land shall be used and no structure shall be erected or used except as set forth in the following Table of Principal Uses, Table A, including the notes to Table A, or as otherwise set forth herein, or as exempted by General Laws. Any building or use of premises not herein expressly permitted is hereby prohibited.

3.1.1 Symbols. Symbols employed in the Table of Principal Uses shall mean:

Y = Permitted as of right

N = Prohibited

BA = Special Permit/Board of Appeals

PB = Special Permit/Planning Board

SRA = Single Residential A

SRB = Single Residential B

SRC = Single Residential C

SRD = Single Residential D

AR = Agricultural Residential

GB = General Business

C&I = Commercial & Industrial

MGF = Municipal Government Facilities

UCBD = Upton Center Business District

3.1.3 Table of Principal Uses: See Table A, below.

Proposed Zoning By-law for Upton Center Business District
Approved by Planning Board at Public Hearing Oct 22 2019

Table A – Table of Principal Uses By District

| | Residential | Principal Uses | SRA | SRB | SRC | SRD | AR | GB | C&I | MGF | UCBD |
|----|---|-----------------------|------------|------------|------------|------------|-----------|-----------|----------------|------------|-------------|
| 1 | One-family house, with not more than one such house located on any lot. | Y | Y | Y | Y | Y | BA | BA | N | N | |
| 2 | Conversion From Single Family to Two-Family Dwelling (SEE note 1) | BA | BA | BA | BA | BA | BA | BA | N | BA | |
| 3 | Bed and breakfast (up to 12 units), inns, boarding or lodging house but not including overnight cabins, motels, or hotels | BA | BA | BA | BA | N | BA | BA | N | BA | |
| 4 | Senior Housing Community (SEE Section 7.4 for additional regulations) | PB | PB | PB | PB | PB | N | N | N | N | |
| 5 | Townhouses and garden apartments (SEE Section 7.2 for additional regulations) | BA | BA | N | N | N | BA | BA | N | N | |
| | Agricultural | Principal Uses | SRA | SRB | SRC | SRD | AR | GB | C&I | MGF | UCBD |
| 6 | Open Space Preservation Subdivision (SEE Section 7.3 for additional regulations) | N | PB | PB | PB | PB | N | N | N | N | |
| 7 | Farm, orchard, nursery or similar open use of the land for the raising of agricultural or horticultural crops, on less | Y | Y | Y | Y | Y | Y | Y | N | N | |
| 8 | The raising and/or keeping of livestock on less than five (5) acres. | N | N | N | N | BA | BA | BA | N | N | |
| 9 | The raising of hogs, pigs, or fur-bearing animals for commercial purposes on less than five (5) acres. (SEE | N | N | N | N | BA | N | N | N | N | |
| 10 | Salesroom or stand for the display and sale of agricultural, floricultural, viticultural or horticultural products including wine and dairy products where the majority of such products are grown on the premises (SEE note 2) | N | N | N | N | BA | BA | BA | N | N | |
| 11 | Riding stable for commercial purposes on less than five (5) acres | N | N | N | N | BA | N | N | N | N | |

Proposed Zoning By-law for Upton Center Business District
Approved by Planning Board at Public Hearing Oct 22 2019

| | Institutional, Educational and Municipal | SRA | SRB | SRC | SRD | AR | GB | C&I | MGF | UCBD |
|----|--|-----|-----|-----|-----|----|----|-----|-----|-------------|
| 12 | Use of land or structures for religious purposes or for educational purposes on land owned or leased by the commonwealth or any of its agencies, subdivisions or bodies politic or by a religious sect or denomination, or by a nonprofit educational corporation. | Y | Y | Y | Y | Y | Y | Y | N | Y |
| 13 | Non-profit museum, art gallery or community center. | BA | BA | BA | BA | BA | Y | Y | N | Y |
| 14 | Municipal administration buildings and uses, including town library, fire or police station, public works facility, sewer and water pump stations. | Y | Y | Y | Y | Y | Y | Y | Y | Y |
| 15 | Municipal recreation or public water supply use. | Y | Y | Y | Y | Y | Y | Y | Y | Y |
| 16 | Child care facility, as defined in G.L. c. 40A, s.3 | Y | Y | Y | Y | Y | Y | Y | N | Y |
| 17 | Family day care home, as defined in G.L. c. 28A, s.9 | BA | BA | BA | BA | BA | BA | BA | N | BA |
| 18 | Cemetery | BA | BA | BA | BA | N | BA | BA | N | N |
| 19 | Lodge building for use by private club, or other non-profit civic organization, Assembly Hall | BA | BA | BA | BA | N | BA | N | N | BA |

| | Recreational | SRA | SRB | SRC | SRD | AR | GB | C&I | MGF | UCBD |
|----|--|-----|-----|-----|-----|----|----|-----|-----|-------------|
| 20 | Golf course | N | N | N | N | BA | N | N | N | N |
| 21 | Boat Rental and Storage Facility | N | N | N | N | BA | BA | N | N | BA |
| 22 | Country club | BA | BA | BA | BA | N | BA | N | N | N |
| 23 | Place of amusement or assembly. (SEE note 5) | N | N | N | N | N | BA | BA | N | Y/BA |

Proposed Zoning By-law for Upton Center Business District
Approved by Planning Board at Public Hearing Oct 22 2019

| | Retail and Consumer Service | SRA | SRB | SRC | SRD | AR | GB | C&I | MGF | UCBD |
|-----|--|------------|------------|------------|------------|-----------|-----------|----------------|------------|-------------|
| | Principal Uses | | | | | | | | | |
| 24 | Retail Stores (SEE note 10) | N | N | N | N | N | Y | Y | N | Y/PB |
| 25 | Vehicle Repair Shops and Vehicle-Related Businesses (SEE note 3) | N | N | N | N | N | BA | BA | N | N |
| 26 | Personal Services (SEE note 9) | N | N | N | N | N | Y | Y | N | Y/PB |
| 27 | Eating and drinking Establishments (SEE note 8) | N | N | N | N | N | Y | Y | N | Y |
| 28 | Business or professional offices | N | N | N | N | N | Y | Y | N | Y |
| 29 | Banks and Pharmacies – without drive-thrus | N | N | N | N | N | Y | Y | N | Y |
| 30 | Showroom for building supplies, including plumbing, heating and ventilating equipment, with storage limited to floor samples only. | N | N | N | N | N | BA | BA | N | BA |
| 31 | Showroom for boats, trailers, trucks, farm implements, or machinery, with no repair services. | N | N | N | N | N | BA | BA | N | N |
| 32 | Showroom for Wholesale Establishments | N | N | N | N | N | Y | Y | N | N |
| 33 | Funeral home | N | N | N | N | N | Y | Y | N | N |
| 34 | Planned Village Development (SEE Section 6.4 for additional regulations) | N | N | N | N | N | N | PB | N | N |
| 35 | Drive-thru Establishments (SEE Section 6.5 for additional regulations) | N | N | N | N | N | PB | PB | N | PB |
| 35A | Mixed Use facilities (See Note 12) | N | N | N | N | N | PB | N | N | PB |

Proposed Zoning By-law for Upton Center Business District
Approved by Planning Board at Public Hearing Oct 22 2019

| Utilities, Communication and Transportation | | | | | | | | | | |
|--|--|------------|------------|------------|------------|-----------|-----------|----------------|------------|-------------|
| | Principal Uses | SRA | SRB | SRC | SRD | AR | GB | C&I | MGF | UCBD |
| 36 | Personal wireless service facilities (SEE Section 6.2 for additional regulations) | PB | PB | PB | PB | PB | PB | PB | PB | N |
| 37 | Privately owned electrical substations and other utilities (not including power plants) that are intended to serve specific areas of town. | BA | BA | BA | BA | N | BA | BA | Y | N |
| 38 | Large-Scale Ground-Mounted Solar Photovoltaic Installations with Rated Nameplate Capacity of 250 kW DC to 500 kW DC and that occupy from 40,000 to 80,000 square feet of surface area (See Section 6.6 for additional regulations) (See Note 11) | N | N | N | N | N | N | Y | N | N |
| 39 | Large-Scale Ground-Mounted Solar Photovoltaic Installations with Rated Nameplate Capacity greater than 500 kW DC or that occupy more than 80,000 square feet of surface area (See Section 6.6 for additional regulations) (See Note 11) | N | N | N | N | N | N | PB | N | N |

| Industrial, Manufacturing and Storage | | | | | | | | | | |
|--|--|------------|------------|------------|------------|-----------|-----------|----------------|------------|-------------|
| | Principal Uses | SRA | SRB | SRC | SRD | AR | GB | C&I | MGF | UCBD |
| 40 | Establishment for the repair or storage of trailers, trucks, farm implements, or machinery. (SEE note 3) | N | N | N | N | N | N | BA | N | N |
| 41 | Trucking terminal or motor freight station. | N | N | N | N | N | N | BA | N | N |
| 42 | Storage facilities and warehouses. (SEE note 6) | N | N | N | N | N | BA | BA | N | N |
| 43 | Plant for light manufacturing or packaging. | N | N | N | N | N | N | BA | N | N |

Proposed Zoning By-law for Upton Center Business District
Approved by Planning Board at Public Hearing Oct 22 2019

Notes To Table A

- 1) The alteration of a single family dwelling existing on the effective date of this By-Law (October 1, 1958) to accommodate two families if located on a lot having an area not less than twice that required for the erection of a single family dwelling in the same district, provided that no exterior change is made which alters the single family character of the dwelling.
- 2) Provided that any display, whether open or closed, is not less than fifty (50) feet from side and rear lot lines and not nearer the exterior line of any way than the front yard depth required for a building in the district in which said salesroom or stand is located; except that temporary portable stands, not exceeding four feet in height and not exceeding forty square feet in area may be placed nearer the exterior line of any way than the required front yard depth, required in said district, but in no case less than five feet from the exterior of said way.
- 3) Parking lot for passenger automobiles, salesroom for automobiles, automobile repair garage or automobile service station, provided that all heavy repairs (such as body and fender work, or welding) are conducted within a completely enclosed building.
- 4) The term "fur bearing animals" is not intended to apply to the keeping of cats and dogs. The raising of hogs, pigs or fur-bearing animals for commercial purposes on less than five (5) acres shall be carried on at least two hundred feet (200') from any property line.
- 5) Only the following amusement uses **are allowed by right**: fitness clubs, dance studios, driving ranges and miniature golf. **In addition, the following amusement uses are allowed in the UCBD by special permit: video arcade, performing arts/concert venue, biking and pedestrian facilities, pottery/painting studio, or other similar amusement uses.**
- 6) All above-ground storage are limited to ten thousand (10,000) gallons.
- 7) Provided that all parts and portions of any such use are not less than five hundred feet (500') from any boundary line of a Single Residential SRA, SRB, SRC or SRD District
- 8) Restaurant or other place for the serving of food or beverage only to persons seated at tables or counter that does not offer drive-thru service **are allowed by right**.
- 9) Only the following personal or consumer service establishments **are allowed by right**: barber or beauty shop, collection station for laundry or dry cleaning, laundry facilities, photographic studio, shoe or hat repair shop, shop for custom work by dressmaker, milliner or tailor, bicycle repair shop, blueprinting establishment, business or trade school, clothing rental establishment, television or household appliance repair shop, computer repair shop, copy shop, day spa and massage therapists. **In addition, the following personal services establishments are allowed in the UCBD by special permit: gym, fitness center, yoga and pilates studio, acupuncture, esthetician, chiropractic, and other similar personal services establishments.**

Proposed Zoning By-law for Upton Center Business District
Approved by Planning Board at Public Hearing Oct 22 2019

10) Only the following retail businesses are allowed by right: book, stationery or news store, cigar store, drug store, delicatessen, dry goods or variety store, florist or gift shop, fruit or grocery store, hardware store, jewelry store, meat market or wearing apparel store. In addition, the following retail business establishments are allowed in the UCBD by special permit: liquor store, music store, artist live/work spaces, art galleries, and other similar retail businesses.

Retail stores are prohibited from selling any quantity of drug paraphernalia, defined as all equipment, products and materials of any kind that are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body marijuana and/or a controlled substance as defined by Massachusetts State Law.

11) Provided that Large-Scale Ground-Mounted Solar Photovoltaic Installations in the SRA, SRB, SRC, SRD, AR, GB, UCBD and MGF Districts are not otherwise exempted by General Laws.

12) Any apartment units that are part of a mixed-use facility shall not be subject the regulations set forth in Section 7.6, Accessory Apartments.

Table C: General Business, Commercial & Industrial and UCBD District Lots

| District | Minimum Lot Dimension (Note | | Minimum Setback Requirements (Note 6) | | | Maximum Building Height | | Max % Coverage Including Accessory Building |
|----------|-----------------------------|-------------------|---------------------------------------|--------------------------------|--------------------------------|-------------------------|-----------------------------|---|
| | Area Square Feet | Front Linear Feet | Front Linear Feet (Note 2) | Side Linear Feet (Notes 4 & 9) | Rear Linear Feet (Notes 5 & 9) | # of stories | Height Linear Feet (Note 8) | |
| GB | (Note 7) | (Note 7) | 30 | 10 | 20 | 2 | 25 | 40 |
| C&I | (Note 7) | (Note 7) | 30 | 20 | 20 | 1 | 25 | 40 |
| UCBD | 10,000 | 100 | 30 (See Note 10) | 10 (See Note 10) | 20 (See Note 10) | 2 (See Note 10) | 25 (See Note 10) | 40 (See Note 10) |

Proposed Zoning By-law for Upton Center Business District
Approved by Planning Board at Public Hearing Oct 22 2019

Notes For Table B through Table D:

- (1) A lot or parcel of land having an area or a frontage of lesser amounts than required by this table may be considered as coming within the area and frontage requirements of this section, provided such lot or parcel of land was shown on a plan or described in a deed duly recorded or registered at the time of the effective date of this By-Law (October 1, 1958) and did not at the time of the effective date of this By-Law (October 1, 1958) adjoin other land of the same owner available for use in connection with such lot or parcel. In all Districts, except as herein provided, no dwelling shall be constructed on a lot having a width at any point between the frontage way and that part of the dwelling nearest thereto of less than eighty (80) percent of the frontage distance required for the district in which said lot is located.
- (2) To be measured from the right-of-way line where a plan of the way is on file with the Registry of Deeds or, in the absence of such a plan, from a line twenty-five feet (25') from and parallel with the center line of the traveled way.
- (3) Open Space Preservation lots shall only be created upon the approval of a Definitive Plan by the Planning Board. The total number of lots in an Open Space Preservation subdivision shall not exceed the number of lots in a standard subdivision as determined by the Planning Board.
- (4) Side yard minimum setback requirement shall be fifty feet (50') when a lot is adjacent to a Single Residential SRA, SRB, SRC or SRD District or Agricultural Residential District except for accessory structures with a footprint less than or equal to 120 square feet and a height less than fifteen feet which shall have a minimum side and rear setback of ten feet.
- (5) Rear yard minimum setback requirement shall be fifty feet (50') when a lot is adjacent to a Single Residential SRA, SRB, SRC or SRD District or Agricultural Residential District except for accessory structures with a footprint less than or equal to 120 square feet and a height less than fifteen feet which shall have a minimum side and rear setback of ten feet.
- (6) No open display or other open use, where permitted, and no structure shall be located nearer than thirty (30) feet from the exterior line of any public or private way, except the following: utility pole; mailbox; plants growing in the soil if not obstructing the view of vehicles entering and leaving the premises; and parking lot for vehicles.
- (7) In all General Business Districts and Commercial & Industrial Districts, except as herein provided, no building shall be constructed on a lot having less area or having less frontage on a public or private way than the area and frontage, respectively, required for the least restricted Single Residential District adjacent thereto.
- (8) Except as noted herein, chimneys, spires, towers and other projections not used for living purposes, whether constituting separate structures or attached to buildings, may be constructed above the height limitations hereinbefore established, but no such structure or projection shall be constructed in any district to a height greater than fifty (50) feet without authorization of the Board of Appeals.
Exception: Personal wireless service facilities. (SEE Section 6.2.6)

Proposed Zoning By-law for Upton Center Business District
Approved by Planning Board at Public Hearing Oct 22 2019

- (9) Except for accessory structures with a footprint less than or equal to 120 square feet and a height less than fifteen feet which shall have a minimum side and rear setback of ten feet.
- (10) For lots in the UCBD, the following dimensional flexibility may be allowed by special permit:
 - a. The minimum setbacks may be decreased down to the following limits:
 - Front Linear Feet: 0
 - Side Linear Feet: 10
 - Rear Linear Feet: 20
 - b. The maximum building height may be increased up to the following limits:
 - # of stories: 3.5
 - Height Linear Feet: 50
 - c. The maximum % Coverage Including Accessory Building may be increased up to a limit of 80%.
 - d. The special permit granting authority (SPGA) for the above shall be the Board of Appeals except when the lot **Principal Use** requires a special permit of the Planning Board, in which case the SPGA for the above shall be the Planning Board.

6.5 DRIVE THRU ESTALISHMENTS

6.5.3. Applicability

- 2) Drive-thru establishments are limited to a bank or pharmacy by special permit in the General Business, **Upton Center Business** and Commercial-Industrial districts.

Section 10 Definitions

Mixed-use facility: Refers to a deliberate combination of two or more uses including a residential component and a non-residential component. A mixed-use facility shall contain at least one of the non-residential UCBD principal uses listed in the Table of Principal Uses (Section 3.1). Principal uses in a mixed-use facility shall be limited to the UCBD uses listed in the Table of Principal Uses (Section 3.1).