

# *City of Salem*

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*In the year two thousand eighteen*

***An Ordinance*** to amend the zoning ordinance by adding an Municipal and Religious Adaptive Reuse Overlay District to facilitate the appropriate reuse of eligible buildings and thereby protect and advance the general public welfare.

**Section 1.** Section 8 - Special District Regulations of the City of Salem Zoning Ordinance (“Ordinance”) is hereby amended by adding the following new section:

## **8.7 Municipal and Religious Reuse Overlay District**

### **8.7.1 Purpose.**

In addition to that set out in Section 1.1 of the Ordinance, it is the intent of this Section 8.7 to allow for reuse of municipal properties (“Municipal”) and properties used for religious purposes and protected by G.L. c. 40A §3 (“Religious”). This overlay district provides zoning flexibility to allow for such redevelopment, while also facilitating historic preservation, economic development, housing production and environmental sustainability and resilience. When Buildings and Lots in Municipal or Religious use no longer serve such purposes, this Section envisions a process and zoning to allow for reuse, either by a public or private entity, which will best serve the community but will minimize impacts to surrounding neighborhoods.

### **8.7.2 Location**

The Municipal and Religious Reuse Overlay District shall apply in all zoning districts to eligible Lots as defined in Section 8.7.3 herein.

### **8.7.3 Eligibility**

The Municipal and Religious Reuse Overlay District shall apply to:

1. Any Lot improved with one or more Buildings currently in Municipal or Religious use;
2. Where the Building(s) in Municipal or Religious use and for which a change of use is proposed and the Building(s) is at least 3,000 square feet;
3. Where one or more of the Building(s) in Municipal or Religious use and for which a change of use is proposed is at least fifty (50) years old at the time of application under this Section and
4. Where the applicant seeks to change the use of the Lot and/or Building from Municipal or Religious use to one or more of the uses identified in Section 8.7.5.

5. Public parks shall not be considered in Municipal use for the purpose of this ordinance.

A Building shall be considered currently in Municipal or Religious use if the Building was actively used for at least 20 continuous years, including some point in the last 20 years, for Municipal or Religious purposes immediately preceding an Application under this section.

#### 8.7.4 Dimensional Requirements

**Table of Dimensional Requirements**

	<i>Residential Uses or Mixed Use— Existing Buildings</i>	<i>Residential Uses or Mixed Use— New Construction</i>
Minimum lot area (square feet)	2,000	2,000
Minimum lot area per dwelling unit (square feet)	—	500
Minimum lot width (feet)	30	30
Maximum lot coverage by all buildings (percent)	100	50
Minimum width of side yard (feet)	—	standard of the underlying zone
Maximum height of buildings (feet)	—	50
Maximum height of buildings (stories)	—	4*
Maximum height of fences and bordering walls	6	6
Minimum distance between buildings if more than 1 on a lot	Distance shall be equal to the height of the taller building. This distance may be reduced to a distance which is sufficient to provide adequate light, air and access, subject to the approval of the Planning Board. There shall be no requirement for individual row houses sharing a party wall or for existing buildings	

\* For new construction in a flood zone, a ground floor story of parking shall be allowed in addition to the 4 stories.

Any rooftop construction needed for building circulation, drainage, ventilation, utilities, accessibility features or passive recreation shall be excluded from the calculation of building height. New construction that is an addition or alteration to an existing building shall not exceed the height of the existing building or the applicable underlying zoning, whichever is greater. For the purpose of this ordinance, the height shall not include steeples or other ornamental features that are in no way used for living purposes.

To the extent that any eligible Lot and/or existing Building thereon does not conform to the applicable dimensional requirements, the non-conforming Lot and/or existing Building shall be

considered legally existing nonconforming for purposes of an application under this Section 8.7. The Planning Board may grant a special permit pursuant to Section 9.4.1 in conjunction with an application made pursuant to this Section 8.7 to partially reconstruct, extend, alter or change a nonconforming Building if it determines that such reconstruction, extension, alteration, or change shall not be substantially more detrimental than the existing nonconforming structure to the neighborhood.

#### **8.7.5 Uses Allowed by Special Permit**

The Planning Board, upon a finding that a proposed use is in harmony with the purpose and intent of this Ordinance and Section 8.7, may grant a special permit pursuant to this Section 8.7 and Section 9.4 for one or more of the following uses on a Lot that meets the eligibility requirements of Section 8.7.3; provided, however that Commercial uses may only be located within a multifamily dwelling and may not exceed 30 percent of the gross floor area of said multifamily dwelling. In addition, for any Lot in the B2, B4, I and BPD Districts the Planning Board may grant such special permit only upon finding that the public good will be served and that (1) the residential use would not adversely affect the underlying nonresidential district and (2) the nonresidential uses permitted in the underlying nonresidential district are not noxious to the multi-family use. For any Lot in the R1, R2, R3, and RC Districts the Planning Board may grant such special permit that includes a Commercial use only upon finding that the public good will be served and that the Commercial use would not adversely affect the underlying residential district.

A project proposed under this Section 8.7 may, in addition to a change in use of a Building currently in Municipal or Religious use, authorize the construction of new and expanded Buildings.

#### **Special Permit Uses:**

1. Dwelling, Multi-family.
2. Meeting and gathering space accessory to a principal use or for use by residents or tenants of a Lot.
3. Artist lofts and living space, studios, workrooms and shops of artists, artisans and craftsmen, where products of the artistic endeavor or craft activity can be for sale on the premises or by specific off-premises commission from a sponsor or client.
4. Banks and savings and loan institutions.
5. Barber shops and beauty parlors.
6. Books, stationery and gift stores.
7. Business and professional offices.
8. Crafts, related stores selling jewelry, crafts, etc. where production occurs on the premises.
9. Dwelling units above first floor retail, personal service, or office use.
10. Florist shops, but excluding greenhouses.
11. Galleries.

12. Laundromats/dry cleaning establishments.
13. Medical and dental offices.
14. Specialty food stores, including candy store, meat market, delicatessen, or bakery, but not those where food is served for consumption on the premises.
15. Tailor and custom dressmaking shops.
16. All uses permitted as of right or by special permit in the underlying zone or R2 zone.

#### **8.7.6 Site Plan Review**

Each project submitted hereunder shall require site plan approval under Section 9.5. Absent special circumstances, applications under Section 8.7.5 for a special permit and under 8.7.6 for site plan approval should be filed together for contemporaneous consideration by the Planning Board.

#### **8.7.7 Historical Commission and Design Review Board Review**

At the time of, or before filing, an application under this Section 8.7, the applicant shall provide a copy of this application to the City of Salem Historical Commission. The Historical Commission shall review the application at a public meeting and shall provide advisory comments to the Planning Board. The Planning Board shall not take final action on an application under this Section 8.7 until it receives written comment on the application from the Historical Commission, or at least forty-five (45) days have passed since delivery by the application of the application to the Historical Commission. Said forty-five (45) day period may be extended by written agreement between the Applicant and Planning Board. For any project in which a new detached building is proposed to be constructed this paragraph shall apply to both the Historical Commission and City of Salem Design Review Board.

Nothing set forth in this Section 8.7.7 is intended to alter or amend the rights and obligations of the Historical Commission pursuant to the G.L. c. 40C.

Failure of an applicant hereunder to timely deliver a copy of the application to the Historical Commission or Design Review Board may be grounds for denial of the application.

#### **8.7.8 Affordability**

Ten (10%) percent of the total units in any project proposed under this Section 8.7 shall be SHI Eligible Housing as defined by the Massachusetts Department of Housing and Community Development being affordable to a household of one or more persons whose maximum income does not exceed 80% of the area median income, adjusted for household size, or as otherwise established by DHCD guidelines for a period of 99 years as secured by a duly recorded deed restriction. When calculation of the ten (10%) percent of the total units results in a partial unit, the number of required affordable units shall be rounded up to the next whole number.

### **8.7.9 Parking and Loading**

For new residential dwelling uses provisions shall be made for not less than one (1) parking space per dwelling unit for existing buildings and one and one-half (1.5) parking spaces per dwelling unit for new construction.

Nonresidential uses shall provide parking in accordance with Section 5.1.8 Table of Required Parking Spaces.

In mixed-use developments, applicants may propose a reduction in total parking requirements based on an analysis of peak demand for non-competing uses. In such cases the parking requirement for the largest of the uses (in terms of parking spaces required) shall be sufficient. An applicant may use the latest peak demand analyses published by the Institute of Traffic Engineers (ITE) or other source acceptable to the Planning Board.

The parking requirements may be accommodated by either one or a combination of on-site parking and/or parking at municipal or other parking facilities in the vicinity of the Lot. All municipal or other parking facilities which are used to satisfy the parking requirement must meet the following criterion: The parking facility must be less than one thousand (1,000) feet from the Lot as measured in a straight line from the two (2) closest points between the Lot and the parking facility. If using a municipal facility, the owner must purchase an annual parking pass to satisfy the parking requirement.

A new loading zone shall not be required if the existing Building does not have an existing loading zone.

### **8.7.10 Conflict**

The provisions of this zoning overlay district are intended to modify the standards otherwise applied to the Lot and Buildings thereon by the underlying district. Unless specifically modified by this Section 8.7, all other existing standards shall apply to the Lot and Buildings.

### **8.7.11 Severability**

The provisions of this Section 8.7 are severable. The invalidity of any paragraph, subsection or provision of this Section 8.7 shall not invalidate any other paragraph, subsection or provision hereof.

In City Council October 11, 2018

Referred to the Planning Board to hold a Joint Public Hearing with the City Council  
Joint Public Hearing held on December 13, 2018 and continued to January 9, 2019

ATTEST:

ILENE SIMONS  
CITY CLERK