

SECTION 3

ADMINISTRATION, ENFORCEMENT AND APPEALS

3.1 Administration

1. Building Commissioner -

The Building Commissioner is responsible for the enforcement of this ordinance as set forth in Section 3.2 below.

2. City Council -

1. The City Council is hereby designated as the special permit granting authority under this ordinance, unless otherwise specified.
2. The City Council shall hear and decide applications for the extension or alteration of non-conforming uses or structures in accordance with the provisions of Chapter 40A, Section 6, and in accordance with the provisions of Section 7 of this ordinance.

3. Board of Appeals -

1. There will be a Board of Appeals consisting of five regular and three associated members who are year round residents of the City of Woburn and citizens of the City of Woburn, all appointed by the Mayor, subject to confirmation by the City Council for the terms and with the powers and duties set forth in General Laws, Chapter 40A.

2. Powers of Board of Appeals -

- a) To hear and decide appeals in accordance with Chapter 40A, Section 8.
- b) To hear and decide petitions for variances in accordance with Section 10 of Chapter 40A.
- c) To adopt rules and regulations in accordance with the provisions of Chapter 40A, Section 12.
- d) To hear appeals under Chapter 41, Section 81z.

4. Planning Board

1. The Planning Board is hereby designated as the special permit granting authority for Site Plan approval under section 12.2.2 of this ordinance.

3.2 Enforcement

1. The Building Commissioner shall not issue a permit for construction, alteration, moving, or occupancy of any structure or building, or for any use of structures or land related to such permit, if the construction, alteration, moving, occupancy or use would be in violation of any of the provisions of this Ordinance. Nor shall the Building Commissioner issue any permit where plans, or other permits and approvals, submitted to the Commissioner, or lack thereof, would not comply with the provisions of this Ordinance, or with the General Laws incorporated into this Ordinance. Any plans submitted, deemed as a commercial facility as defined under Title III of the Americans with Disabilities Act (ADA), public accommodation as defined under Title III of the Americans with Disabilities Act (ADA), private club not under Title II of the Civil Rights Act of 1964, or public entity, as defined under Title III of the Americans with Disabilities Act (ADA), with the application shall contain a statement signed by the architect of record as follows: 'These Plans as submitted: 1. _____ Conform to the MAAB Laws and Regulations, 2. _____ Conform to the ADA Law and regulations, 3. _____ Do not conform at this time, 4. Waivers will be filed for the following issue(s) _____'. Certified' with the architect's name and stamp affixed thereto. (amended 4/25/2005)
2. Any person violating any of the provisions of this ordinance shall be fined not more than \$300.00 for each offense. Each day that such violation continues shall constitute a separate offense.
 1. Notwithstanding the foregoing, any alleged violation of any of the provisions of this Zoning Ordinance may, in the sole discretion of the Building Commissioner, be made the subject matter of proceedings initiated by the Building Commissioner pursuant to the provisions of MGL Chapter 40, Section 21D, that is, Non-Criminal Disposition. If the Building Commissioner so elects to proceed under Chapter 40, Section 21D, all the terms and provisions of such Chapter and Section shall thereafter govern said action. (added 07/14/87)
 2. If any person who violates this ordinance fails to pay the fine assessed by the Building Inspector within 21 days or after a responsible finding at the district court hearing held in accordance with Massachusetts General Laws Chapter 40, Section 21D, the Building Commissioner may, in addition to pursuing further action under Massachusetts General Laws Chapter 40, Section 21D, forward notice of the violation assessment to the City Treasurer/Collector who shall collect the violation assessment in accordance with the provisions of Massachusetts General Laws Chapter 60, Section 23 and all other applicable provisions of the Massachusetts General Laws, as well as Title 2 and Title 3 of the 1989 Woburn Municipal Code, as amended. (added 2/23/2005)

3. The Building Commissioner, in the enforcement of this ordinance, shall withhold a permit for the construction, alteration or moving of any building or structure if the building or structure as constructed, altered or moved would be in violation of this ordinance, and no permit shall be granted for a new use of a building, structure or land which use would be in violation of this ordinance.
4. The Building Commissioner shall institute appropriate legal proceedings to enforce the provisions of this ordinance or to restrain by injunction any violation thereof, or both, and shall institute and take any and all such action as may be necessary to enforce full compliance with any and all provisions of this ordinance.
5. Enforcement Request. If the Building Commissioner is requested in writing to enforce this ordinance against any person allegedly in violation of same and the Building Commissioner declines to act, he shall notify, in writing, the party requesting such enforcement of any action or refusal to act and the reasons therefore within fourteen days of receipt of such request.
6. The imposition of the penalties herein prescribed shall not preclude the Building Commissioner from instituting appropriate action to prevent unlawful construction or to restrain, correct or abate a violation, or to prevent illegal occupancy of a building, structure or premises or to stop an illegal act, conduct, or business use of a building or structure in or about any premises.

3.3 Appeals

1. Any refusal or failure of the Building Commissioner to respond to a written request to enforce the provisions of this ordinance against any person allegedly in violation of this ordinance may be appealed to the Board of Appeals. In such instances, the Building Commissioner shall notify, in writing, the party requesting such enforcement of any action or refusal to act and the reasons therefore, within fourteen (14) days of receipt of such request.
2. Any issuance of a permit, failure to respond to an enforcement request or decision by the Building Commissioner may be appealed by any person, board or agency having standing under the provision of Chapter 40A, Sections 7 and 8, to the Board of Appeals, provided the appellant appeals within thirty days from the decision, or failure to act being appealed.
3. Any appeal to the Board of Appeals under this section shall be taken by filing a notice of appeal, specifying the grounds thereof to the City Clerk, who shall forthwith transmit copies of the notice to the Building Commissioner and to the Board of Appeals, as provided in Chapter 40A, Section 15. The Building Commissioner shall transmit to the Board of Appeals all documents and papers constituting the record of the case in which the appeal is taken.

4. The Board of Appeals shall hold public hearing on any appeal transmitted to it by the City Clerk within sixty five (65) days of such transmittal. The public bearing shall be duly noticed and conducted as specified in Chapter 40A, Section 15. Additionally written notice of said public hearing shall be delivered to the Building Commissioner by the Board of Appeals at least fourteen (14) days prior to said meeting. (Amended 9/26/2001)
5. The Board of Appeals shall render and file its decision within seventy five (75) days of the filing of an appeal under this section, unless extended in writing by the parties, or the relief sought shall be constructively granted. Such constructive grants shall be evidenced by the issuance by the Board of a certificate signed by a majority of the Board. Approval of an appeal shall require the concurring vote of four of the five members of the Board of Appeals. Failure to act within seventy five days shall be deemed approval. Recording, filing, and noticing of the decision shall meet the requirements of Chapter 40A, Section 15.

3.4 Administrative Correction of Scrivener's Errors

Typographical or numbering errors which do not affect the intent or substance of this Ordinance or any of its articles or sections may be corrected by the City Clerk, without need of a public hearing or further legislative action. The City Clerk shall notify the City Council of the scrivener's error and the correction and, upon the City Council acceptance of the changes thereafter shall file a revised copy of same in the Offices of the City Clerk, City Solicitor and Building Commissioner, with a 'Scrivener's Note' providing the date and substance of the correction. (added 3/9/2017)
