

## SECTION 3.0 USE REGULATIONS

**3.1 PRINCIPAL USES.** No land shall be used and no structure shall be erected or used except as set forth in the following Table of Use Regulations, including the notes to the Table, or as otherwise set forth herein, or as exempted by General Laws. Not more than one principal use shall be located on a lot unless otherwise provided herein. Any building or use of premises not herein expressly permitted is hereby prohibited.

**3.1.1 Symbols.** Symbols employed in the Table of Use Regulations shall mean the following:

Y	-	Permitted as of right
N	-	Prohibited
ZBA	-	Special Permit / Zoning Board of Appeals
PB	-	Special Permit / Planning Board
SB	-	Special Permit / Board of Selectmen
SPR	-	Site Plan Review / Zoning Board of Appeals (See subsection 9.4.)

**3.1.2 If Classified Under More than One Use.** Where an activity may be classified as more than one of the principal uses listed in the Table of Use Regulations, the more specific classification shall determine permissibility; if equally specific, the more restrictive shall govern.

**3.1.3 Table of Use Regulations.**

### Table A: Table of Use Regulations

Y = Permitted as of right, N = Prohibited, ZBA = Special Permit / Zoning Board of Appeals

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All uses are subject to dimensional requirements established in Section 4.

#### Residential Uses

One-family dwelling	Y
Two-family dwelling or multi-family dwelling (See Subsection 4.2.9)	PB
Common driveways (See subsection 7.2)	PB
Conversion of dwelling as set forth in Subsection 4.2.9	PB
Rear lots (See subsection 7.3)	PB

#### Institutional and Exempt Uses (Exempt uses per G.L. c. 40A §3)

Cemetery	PB
Child care facility	Y/SPR

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Hospital, sanitarium, nursing, rest or convalescent home, orphanage, or continuing care facility	PB
Municipal administration buildings; fire, ambulance or police station	Y/SPR
Other municipal use not specifically listed herein	PB
<b>Institutional and Exempt Uses (continued)</b>	
Public park, playground or other public recreation facility	Y/SPR
Reservation, wildlife preserve or other conservation use	Y
Reservoir, pumping station building, sewage treatment plant or water supply facility	PB
Surface water impoundment, flood retention ponds or other surface water storage use	PB
Telephone exchange, transformer station, radio or television station or broadcasting facility, railroad or bus depot or other public utility or communication use	PB
Use of land for religious purposes	Y/SPR
Use of land or structures 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/SPR
<b>Agricultural Uses (Exempt uses per G.L. c. 40A §3)</b>	
Agricultural use, exempt	Y
Farm stand, exempt	Y
Agricultural use, nonexempt; orchard, market garden nursery or other commercial agricultural production	Y
Agricultural use, nonexempt: forestry and the selective harvesting of forest products	Y
Agricultural use, nonexempt: commercial greenhouse	PB
Agricultural use, nonexempt, commercial poultry or livestock farm, raising of animals	PB
Farm stand, nonexempt (open less than 6 months in any year)	Y
Farm stand, nonexempt	PB
<b>Commercial Uses</b>	
Adult Entertainment Use (See subsection 8.2 for definitions, applicability, standards and conditions for Adult Entertainment Uses)	PB
Artisan shop, retail	PB
Artisan workshop	Y/SPR
Auction gallery for exhibition, sale by auction and flea market	PB
Bank, loan agency, or business office	PB
Buildings containing a dwelling unit in combination with a store or other permitted business or commercial use	PB

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Camping, hunting or fishing ground, ski area, golf course, riding academy or other predominantly outdoor recreational use, conducted for gainful purpose	PB
Funeral establishment	PB
General service establishment (See Section 10, Definitions)	PB
Golf driving range, miniature golf course, or similar outdoor commercial amusement use	PB
Hotel or motel	PB
<b>Commercial Uses (continued)</b>	
Library or museum conducted as a for profit business	PB
Lunch room, restaurant, cafeteria or similar place, for serving food or beverages to persons <b>inside</b> the buildings	PB
Medical or dental office or laboratory	PB
Motor vehicle or farm implement repair to be wholly conducted within a building sufficiently sound insulated to confine disturbing noise to the premises	PB
Multiple Retail or Consumer Services in a single structure, provided that the total building footprint not exceed 20,000 square feet	PB
Personal service establishment (See Section 10, Definitions)	PB
Private lodge or club	Y/SPR
Real estate, insurance or professional office (other than home occupation)	PB
Refreshment stand, drive-in, or other place for the serving of food or beverages to persons <b>outside</b> the building	PB
Retail store for the sale of food, beverages, or merchandise, with all display, storage and sales to be conducted within the building	PB
Sale of motor vehicle fuel, related products and services, not to include motor vehicle repair	PB
Theater, motion picture house, bowling alley, dance hall, arcade, or other indoor commercial amusement or assembly use	PB
Trade, professional or other school conducted as a for profit business	PB
Veterinary establishment, kennel, or place for the boarding of animals	PB
<b>Industrial Uses</b>	
Extractive operations (See Subsection 6.1)	PB
Lumber yard	PB
Publishing, data processing and computer software manufacturing, including associated office and distribution facilities	PB
Research and test facility	PB
Manufacturing, small scale	PB
Warehouse or other enclosed building for the storage, distribution, or wholesale	PB

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marketing of material, merchandise, products, or equipment

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**NOTE:** Refer to Subsection 6.3 for other requirements related to industrial uses.

#### Accessory Uses

<u>Accessory apartment (See Subsection 3.2.3.6)</u>	<u>Y</u>
Accessory scientific uses	PB
Adult day care	Y/SPR
Adult Entertainment Use	N
Airstrip or helipad for private use	PB
Artisan shop, retail	PB
Artisan workshop	Y/SPR
<b>Accessory Uses(continued)</b>	
Bed and breakfast	Y/SPR
Boarding house	PB
Commercial auto repair (See Subsection 3.2.1)	PB
Commercial kennel (See Subsection 3.2.1)	PB
Contractor's yard (See subsection 3.2.1.6)	PB
Family day care, large (Refer to G.L. c. 28A, §9)	PB
Family day care, small (Refer to G.L. c. 28A, §9)	Y/SPR
Home occupation by right (See Subsection 3.3.1)	Y
Home occupation by Special Permit (See Subsection 3.3.2)	PB
Overnight parking of heavy-duty commercial vehicles (See subsection 3.2.1.5)	
<b>NOTE:</b> (Refer to Subsection 3.2.2 for other requirements for non-residential accessory uses.)	
<b>NOTE:</b> (Refer to Subsections 4.2.4, 4.2.5, 4.3.2, 4.2.10, 5.1.8, 6.4.8 and 7.1.5.6 related to fences.)	

#### Prohibited Uses

Amusement park, go-kart track, commercial motorcross track, or race track	N
Commercial parking lot or parking garage	N
Commercial processing of earth, sand, rock, and gravel	N
Fuel storage plant, truck terminal, used car lot	N
Manufacturing, large scale	N
Mobile homes (See Subsection 6.2 for conditions when mobile home may be allowed)	N

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Salvage yard for the dismantling, storage and sale of parts for motor vehicles	N
Slaughterhouse	N
Pig farm, mink farm and fur bearing animal farm on less than 5 acres (see definition of Agricultural use, non exempt)	N

**NOTE:** Refer to Article 17 of the Town of Becket By-Laws for non-zoning requirements for specified uses.

## 3.2 ACCESSORY USES OR STRUCTURES

**3.2.1 Permitted Accessory Uses.** The following accessory uses are specifically permitted as indicated by right or by Special Permit on Table A, Table of Use Regulations (Refer to Subsection 3.1.3):

1. Accessory scientific uses. Uses, whether or not on the same parcel as activities permitted as a matter of right, which are necessary in connection with scientific research or scientific development or related production, may be permitted upon the issuance of a Special Permit by the Planning Board, provided that the Board finds that the proposed use is not substantially more detrimental to the neighborhood.
2. Adult day care.
3. Commercial auto repair or service. Commercial auto repair or service is allowed as an accessory use on lots of 2 acres or greater upon the issuance of a Special Permit from the Planning Board.
4. Commercial kennels. Commercial kennels are allowed as an accessory use on lots of 2 acres or greater with Special Permit from the Planning Board.
5. Subject to applicable federal and state laws, overnight parking of heavy-duty commercial vehicles:
  - a. The overnight parking of one heavy-duty commercial vehicle either owned or operated by a resident of the premises shall be allowed by right provided the vehicle is not loaded with flammable, noxious or dangerous cargo, other than fuels, lubricants and fluids normally used to operate equipment.
  - b. The overnight parking of more than one heavy-duty commercial vehicle, none of which are loaded with flammable, noxious or dangerous cargo, other than fuels,

lubricants and fluids normally used to operate equipment, shall require site plan approval.

- c. The overnight parking of one or more vehicles including any loaded with flammable, noxious or dangerous cargo, other than fuels, lubricants and fluids normally used to operate equipment, shall require a Special Permit from the Planning Board. The police and fire departments shall be notified by the applicant. Proof of notification to the police and fire department shall be included as part of the Special Permit application.

6. Contractor's yard. Contractor's yard owned or operated by a resident of the premises may be permitted as an accessory use upon the issuance of a Special Permit by the Planning Board. In addition to the requirements of subsection 9.3, the Planning Board shall include consideration of each of the following in making its determination about a special permit:

- a. Storage of equipment or material. Equipment or material shall be parked within the property lines of the [lot](#) and shall not be parked within the minimum front, side or rear setback; shall not be parked, stored, or placed within 25 feet of any [drainage](#) channel; shall be subject to the Wetlands Protection Act, G.L. c. 131 § 40; shall not be stored under overhead or over buried facilities; shall be located a minimum distance of one hundred feet from any residence, except for an owner's residence; and shall be screened from public view.
- b. Areas used for repairs and maintenance to equipment. Repairs and maintenance to equipment used in conjunction with a contractor's yard shall be conducted in areas where no spills or leakage of fuels or other fluids could pose a pollution hazard.
- c. Normal hours of operation. 6:00 a.m. to 9:00 p.m.
- d. Storage of flammable, noxious or dangerous cargo. Equipment shall not be loaded with flammable, noxious or dangerous cargo, other than fuels, lubricants and fluids normally used to operate equipment.

This Special Permit requirement shall only apply to new or expanded contractor's yards after the date of adoption of this requirement, as set forth in Massachusetts General Law Chapter 40A Section 6.

**3.2.2 Nonresidential Accessory Uses.** Any use permitted as a principal use is also permitted as an accessory use provided such use is customarily incidental to the main or principal building or use of the land. Except as otherwise set forth herein, any use authorized as a principal use by Special Permit may also be authorized as an accessory use by Special Permit provided such use is customarily incidental to the main or principal building or use of the land. Any use not allowed in the district as a principal use is also prohibited as an accessory use. Accessory uses are permitted only in accordance with lawfully existing principal uses. In all instances where Site Plan Approval is required for a principal use, the addition of any new accessory use to the

principal use shall also require Site Plan Approval.

**3.2.3 Residential Accessory Uses.** The following accessory uses are specifically permitted as of right or by Special Permit.

1. Boarders in One-Family Dwelling. The renting of rooms and/or furnishing of board to not more than five persons in a one-family dwelling by the owner or occupant thereof shall be a permitted accessory use. The renting of rooms and/or furnishing of board to six or more persons shall be deemed a boarding house subject to the provisions of the Table of Use Regulations (Refer to Subsection 3.1.3).

2. Bed and breakfast.

3. Artisan shop.

4. Airstrip or helipad for private use.

5. Family Day Care Homes. Large and small family day care homes are allowed as an accessory use as specified in the Table of Use Regulations (Refer to Subsection 3.1.3).

6. Accessory Apartments. An Accessory Apartment is a self-contained dwelling unit incorporated within a one-family dwelling, but not within any accessory structure(s), and which is a subordinate part of the one-family dwelling and complies with the criteria below.

a. Purposes: The purposes for permitting accessory apartments are to:

- i. Provide older homeowners with a means of obtaining rental income, companionship, security and services, and to thereby enable them to stay in their homes and neighborhoods.
- ii. Add moderately priced rental units to the housing stock to meet the needs of smaller households and make dwelling units available to moderate income households who might otherwise have difficulty finding housing.
- iii. Develop housing units in single-family neighborhoods that are appropriate for households at various stages in their life cycles.
- iv. Protect stability, property values, and the single-family residential character of a neighborhood by ensuring that accessory apartments are installed only in owner-occupied primary residence.

b. Definitions: The following definitions shall apply:

***Accessory Apartment:*** A Dwelling unit (as defined in §10.0), which is created by partition of a Dwelling, one-family (as defined in §10.0). The Accessory Apartment shall have a Net Floor Area as defined in 780 CMR 1002.1 (6<sup>th</sup> ed.), of

no less than 300 square feet, and no more than one third of the Net Floor Area of the one family Dwelling in which it is contained up to a maximum of 800 square feet.

Any proposed partition of the interior space of a one family Dwelling which creates a new Dwelling unit of greater size shall be considered the creation of a Dwelling, two-family (as defined in §10.0) and shall be subject to the requirements for two-family Dwellings as set forth in the Table of Use Regulations, §3.1.3; in the Dimensional Requirements, §4.2.9; and all other pertinent sections of the Becket Zoning By-Laws.

- c. Conditions: The Owner(s) of the house in which an Accessory Apartment is proposed shall meet all the following conditions.
- i. The Accessory Apartment shall be a complete, separate housekeeping unit containing cooking, living, sleeping and sanitary facilities and must have two means of egress.
  - ii. An Accessory Apartment shall be built within the existing footprint of the house to which it is being added, with the exception of any exterior entrance porch, stairs or landing. Whenever feasible, such exterior entrance porch, stairs or landing shall be placed on the side or rear of the house, provided that such porch, stairs or landings shall not intrude into required front, side or rear setbacks by more than five feet.
  - iii. Only one Accessory Apartment may be created within a single-family house.
  - iv. The owner(s) of the house in which the Accessory Apartment is created shall continue to occupy at least one of the Dwelling units in that house as their primary or secondary residence.
  - v. An Accessory Apartment shall not be made available for seasonal (summer or ski season) rental, but shall be rented as a full time rental.
  - vi. A minimum of one parking space shall be provided for the Accessory Apartment. This parking space shall be in addition to all existing spaces utilized by the owner(s) of the house in which the Accessory Apartment is located. If there is any existing unutilized parking space, it shall be allocated to the Accessory Apartment, and shall count towards the parking requirement for the Accessory Apartment.
  - vii. The room sizes and overall design of the Accessory Apartment shall conform to all applicable standards of the Massachusetts State Building Code and any other state or local Building, Health, Sanitary or other codes.
  - viii. Prior to issuance of a Building Permit for construction of an Accessory Apartment, a floor plan at a scale of ¼ inch equals one foot shall be provided



showing both square footage of the building as a whole and the relationship and size of the dominant apartment and the Accessory Apartment to the building as a whole, and elevations in the same scale of any exterior facade of the building which will be changed by the addition of the Accessory Apartment.

- ix. In all cases, whether new construction is required or not, the owner shall obtain a Certificate of Occupancy from the Building Inspector prior to the use of the Accessory Apartment.
- x. Except as otherwise provided for herein, the Accessory Apartment shall comply with all requirements of §9.0, Administration and Enforcement, and all other applicable sections of the Becket Zoning By-Laws.

**3.2.4 Prohibited Accessory Uses.** The following accessory uses are prohibited:

- 1. Unregistered Motor Vehicles. See Article 17, Section 8 of the Becket General By-Laws.
- 2. Adult Entertainment Uses

**3.3 HOME OCCUPATIONS**

**3.3.1 Home Occupation - As of Right.** A home occupation may be allowed as of right, provided that it:

- 1. is conducted solely within a dwelling and solely by the person(s) occupying the dwelling as a primary residence;
- 2. is clearly incidental and secondary to the use of the premises for residential purposes;
- 3. does not produce offensive noise, vibration, smoke, dust, odors, heat, lighting, electrical interference, radioactive emission or environmental pollution;
- 4. does not utilize exterior storage of material or equipment (including the parking of commercial vehicles);
- 5. does not exhibit any exterior indication of its presence or any variation from residential appearance, except for a sign in compliance with Subsection 5.1;
- 6. does not produce more than incidental customer, pupil, client, or delivery trips to the occupation site and has no nonresident employees;

**3.3.2 Home Occupation - By Special Permit.** A home occupation may be allowed by Special Permit issued by the Planning Board, provided that:

1. it fully complies with Subsections 3.3.1.2, 3.3.1.3 and 3.3.1.4 above;
2. it is conducted within a dwelling solely by the person(s) occupying the dwelling as a primary residence and, in addition to the residents of the premises, by not more than two additional employees; where employees leave vehicles on the premises while conducting business elsewhere, they shall be counted as nonresident employees;
3. it does not exhibit any exterior indication of its presence, or any variation from residential appearance, except for a sign or name plate in compliance with Subsection 5.1;
4. not more than three home occupations are conducted out of dwelling; in no event shall the number of nonresident employees exceed two in the aggregate;
5. a Special Permit for such use is granted by the Planning Board, subject to conditions including, but not limited to, restriction of hours of operation, maximum floor area, off-street parking, and maximum number of daily customer or other vehicle trips. Such Special Permit shall be limited to five years, or the transfer of the property, whichever first occurs.

### **3.4 NONCONFORMING USES AND STRUCTURES**

**3.4.1 Applicability.** This Zoning By-Law shall not apply to structures or uses lawfully in existence or lawfully begun, or to a building or Special Permit issued before the first publication of notice of the public hearing required by G.L. c. 40A, §5 after which this Zoning By-Law, or any relevant part thereof, was adopted. Such prior, lawfully existing nonconforming uses and structures may continue, provided that no modification of the use or structure is accomplished, unless authorized hereunder.

**3.4.2 Nonconforming Uses.** The Planning Board may issue a Special Permit to change a nonconforming use in accordance with this Section only if it determines that such change or extension shall not be substantially more detrimental than the existing nonconforming use to the neighborhood. The following types of changes to nonconforming uses may be considered by the Planning Board:

- a. Change or substantial extension of the use;
- b. Change from one nonconforming use to another, less detrimental, nonconforming use.

**3.4.3 Nonconforming Structures.** Except as contained in Subsection 3.4.4, the Planning Board may award a Special Permit to reconstruct, extend, alter, or change a nonconforming structure in accordance with this Section only if it determines that such reconstruction, extension, alteration, or change shall not be substantially more detrimental than the existing nonconforming structure to the neighborhood. The following types of changes to nonconforming structures may be considered by the Planning Board:

- a. Reconstructed, extended or structurally changed;
- b. Altered to provide for a substantially different purpose or for the same purpose in a substantially different manner or to a substantially greater extent;

**3.4.4 Nonconforming Single and Two Family Residential Structures.** Nonconforming single and two family residential structures may be reconstructed, extended, altered, or structurally changed upon a determination by the Building Inspector that such proposed reconstruction, extension, alteration, or change does not increase the nonconforming nature of said structure. The following circumstances shall not be deemed to increase the nonconforming nature of said structure:

- a. reconstruction, extension, alteration or change to a structure located on a lot with insufficient area which complies with all current setback, yard, building coverage, and building height requirements,
- b. reconstruction, extension, alteration or change to a structure located on a lot with insufficient frontage which complies with all current setback, yard, building coverage, and building height requirements.
- c. reconstruction, extension, alteration or change to a structure which encroaches upon one or more required yard or setback areas, where the alteration will comply with all current setback, yard, building coverage and building height requirements.
- d. reconstruction, extension, alteration or change to an existing nonconforming structure which occurs entirely within the footprint of the existing structure.

In the event that the Building Inspector determines that the nonconforming nature of such structure would be increased by the proposed reconstruction, extension, alteration, or change, the Planning Board may, by Special Permit, allow such reconstruction, extension, alteration, or change where it determines that the proposed modification will not be substantially more detrimental than the existing nonconforming structure to the neighborhood. The extension of an exterior wall at or along the same nonconforming distance within a required yard shall only require the issuance of a Special Permit from the Planning Board, but if other existing non-conformities are to be increased or new nonconformities created at the same time, the Zoning Board of Appeals may grant or deny the requested relief, instead of the Planning Board.

**3.4.5 Nonconforming Structure-Dimensional Special Permit:** Where a proposed construction, reconstruction, extension or structural change of a nonconforming structure would increase an existing nonconformity or create a new nonconformity, including a further incursion into a setback area (including those changes affecting a single or two-family residential structure), the Zoning Board of Appeals may issue a dimensional Special Permit to allow the increase in an existing nonconformity, new nonconformity, or further incursion wherever it shall find that adjoining areas have been previously developed by the construction of buildings or structures on lots generally smaller than the 2 acres that is prescribed by the current bylaw and

the standard of the neighborhood so established is not diminished by allowing such increase, new nonconformity or further incursion into the setback area. The Zoning Board of Appeals may also at the same hearing issue a Special Permit to reconstruct, extend, alter or change the nonconforming structure only if it determines that such reconstruction, extension, alteration, or change shall not be substantially more detrimental than the existing nonconforming structure to the neighborhood.

In all other cases where a Special Permit is required in 3.4.3 and 3.4.4, the Planning Board shall be the issuing authority.

**3.4.6 Abandonment or Non-Use.** A nonconforming use or structure which has been abandoned or not used for a period of two years, shall lose its protected status and be subject to all of the provisions of this Zoning By-Law; provided, however, that such nonconforming use or structure may be reestablished upon the grant of a Special Permit by the Planning Board.

**3.4.7 Reconstruction after Catastrophe or Demolition.**

1. A nonconforming structure may be reconstructed after a catastrophe provided that such reconstruction shall take place within two years after such catastrophe.
2. A nonconforming structure may be reconstructed after voluntary demolition provided that the reconstruction of said premises shall commence within two years after such demolition. The reconstruction after demolition of any structure other than a one-family dwelling shall require a Special Permit from the Planning Board prior to such demolition.
3. The reconstruction of a one-family dwelling shall be located on the same footprint as the original nonconforming structure and shall be only as great in volume or area as the original nonconforming structure. In the event that the proposed reconstruction would (a) cause the one-family dwelling to exceed the volume or area of the original nonconforming structure or (b) cause the structure to be located other than on the original footprint, a Special Permit shall be required from the Planning Board prior to such demolition.

**3.4.8 Reversion to Nonconformity.** No nonconforming use shall, if changed to a conforming use, revert to a nonconforming use.