

**SECTION X: DISTRICT NAME SMART GROWTH OVERLAY DISTRICT (SGOD)**

**1. PURPOSE**

1.1. The purpose of the District Name is to:

- a) To encourage smart growth in accordance with the purposes of G. L. Chapter 40R.
- b) To provide an opportunity for residential and mixed-use development within a distinctive, attractive and livable environment.
- c) To generate positive tax revenue for the Town to the extent consistent with Massachusetts General Law Chapter 40R, while providing the opportunity for new business growth and additional local jobs.
- d) To provide for a diversified housing stock at a variety of costs, including affordable housing and other housing types that meet the needs of the Town's population.
- e) To ensure high quality site planning, architecture, and landscape design that enhances the distinct visual character and identity of the Town and provides an environment with safety, convenience and amenity.
- f) To ensure future development protects environmental values including surface and groundwater resources, soils, vegetation and wildlife. .
- g) To promote pedestrian-friendly development and redevelopment in the Town.
- h) To promote efficient use of land and parking supply and limit the expansion of impervious surfaces within the district by utilizing best practices of parking requirements.

**2. DEFINITIONS**

2.1. For purposes of this Section X, the following definitions shall apply. All capitalized terms shall be defined in accordance with the definitions established under the Enabling Laws or Section 2.0, or as set forth in the PAA Regulations. To the extent that there is any conflict between the definitions set forth in Section 2.0 or the PAA Regulations and the Enabling Laws, the terms of the Enabling Laws shall govern.

**Accessory**

A building, structure or use which is subordinate to, and the use of which is customarily incidental to, and is located on the same lot with the principal building, structure or use to which it is accessory.

**Affordable Homeownership Unit**

Affordable Housing unit required to be sold to an Eligible Household.

**Affordable Housing**

Housing that is affordable to and occupied by Eligible Households.

**Affordable Housing Restriction**

A deed restriction of Affordable Housing meeting statutory requirements in G.L. Chapter 184, Section 31 and the requirements of Section 6.5 of this Bylaw.

**Affordable Rental Unit**

An Affordable Housing unit required to be rented to an Eligible Household.

**Animal Grooming Service**

Any place or establishment, public or private, where animals are bathed, clipped, or combed for the purpose of enhancing their aesthetic value or health and for which a fee is charged.

**Applicant**

The individual or entity that submits a Project for Plan Approval.

**As-of-right**

A use allowed under Section 5.0 without recourse to a special permit, variance, zoning amendment, or other form of zoning relief. A Project that requires Plan Approval by the PAA pursuant to Sections 9.0 through 13.0 shall be considered an as-of-right Project.

**Assisted Living Facility**

A special combination of housing, supportive services, personalized assistance, and health care designed to respond to the individual needs of seniors who need help with activities of daily living. A facility with a central or private kitchen, dining, recreational, and other facilities, with separate bedrooms or living quarters, where the emphasis of the facility remains residential.

**Brewery, Distillery, or Winery**

A business located in a building where the primary use is for the production and distribution of malt, spirituous, or vinous beverages, licensed under the relevant state and federal statutes.

**Building**

A structure having a roof (including an awning or similar covering) adapted to permanent or continuous occupancy for assembly, business, education, industrial, institutional, residential or storage purposes. The term "building"

shall be construed where applicable as if followed by the words "or portion thereof".

**Car-Sharing Services**

A membership-based entity with a distributed fleet of carsharing vehicles that charges a use-based fee related to a specific vehicle.

**Clinic, Medical or Dental**

A facility operated by one or more physicians, dentists, chiropractors or other licensed practitioners of the healing arts for the examination and treatment of persons solely on an outpatient basis.

**Commercial/Mixed-Use Development Area**

A Project containing non-residential uses and optional residential uses, as allowed in Section 5.2, and subject to all applicable provisions of this Section X.

**Cottage**

A small detached, single-family dwelling unit with narrow masing.

**Cultural Center**

A use providing for display, performance, or enjoyment of heritage, history, or the arts, including but not limited to: museums, arts performance venues, cultural centers, or interpretive sites.

**Department or DHCD**

The Massachusetts Department of Housing and Community Development, or any successor agency.

**Design Standards**

The provisions of Section 13 made applicable to Projects within the SGOD that are subject to the Plan Approval process.

**Dwelling Unit**

One or more rooms arranged, intended or designed to be occupied by one family/household and to provide complete facilities for living, sleeping and eating.

**Eligible Household**

An individual or household whose annual income is less than 80 percent of the area-wide median income as determined by the United States Department of Housing and Urban Development (HUD), adjusted for household size, with income computed using HUD's rules for attribution of income to assets.

**Enabling Laws**

G.L. Chapter 40R and 760 CMR 59.00.

**Farmers' Market**

An occasional or periodic market held in an open area or in a structure where groups of individual sellers offer for sale to the public such items as fresh produce, seasonal fruits, fresh flowers, arts and crafts items, and food and beverages dispensed from booths located on-site.

**Health Club/Fitness Studio**

A facility where members or nonmembers use equipment or space for the purpose of physical exercise. Also, a place or building that provides massage, exercise classes, and related activities.

**Kennel**

The boarding, breeding, raising, grooming, or training of two or more dogs, cats, or other household pets not owned by the owner or occupant of the premises, and/or for commercial gain.

**Light Industry**

Research and development activities, the manufacturing, compounding, processing, packaging, storage, assembly, and/or treatment of finished or semifinished products from previously prepared materials, and provided that such activities are not offensive by reason of the emission of odor, fumes, dust, smoke, noise and/or vibration, or that would have a negative impact on the environment or living conditions within the Town.

**Live/Work Space**

Spaces within buildings that are jointly used for artist studio/commercial and residential purposes.

**Lot**

The whole area of a single parcel of land in one ownership, with definite boundaries, used, or available for use, as the site of one or more buildings. A lot for the purpose of this Zoning By-Law may or may not coincide with a lot of record title.

**Low Impact Residential Area**

A project with an area comprised of a cluster of single-family residences as allowed in Section 5.2, and subject to all applicable provisions of this Section X.

**Monitoring Agent or Administering Agent**

The local housing authority or other qualified housing entity designated by the municipality [the PAA, chief executive, or other designated municipal official], pursuant to Section 6.2, to review and implement the Affordability requirements affecting Projects under Section 6.0.

**Nursing Home**

home for the aged or infirm in which three or more persons not of the immediate family are received, kept, or provided with food and shelter, or care for compensation; but not including hospitals, clinics, or similar institutions devoted primarily to the diagnosis and treatment of the sick or injured.

**Open Space, Preserved**

Areas intended to remain or be remediated into a predominately natural or undeveloped state to provide resource protection and potential walking paths and trails.

**Open Space, Useable**

A ground area or terrace area on a lot which is graded, developed, landscaped, and equipped and intended and maintained for either active or passive recreation or both, available and generally accessible by all residents and visitors.

**PAA Regulations**

The rules and regulations of the PAA adopted pursuant to Section 9.3.

**Personal Services Establishment**

A facility providing personal services, including but not limited to hair salon, barbershop, dry cleaning, print shop, and photography studio.

**Plan Approval**

The standards and procedures which Projects in the SGOD must meet pursuant to Sections 9.0 through 13.0 and the Enabling Laws.

**Plan Approval Authority (PAA)**

The local approval authority authorized under Section 9.2 to conduct the Plan Approval process for purposes of reviewing Project applications and issuing Plan Approval decisions within the SGOD.

**Project**

A development Project undertaken within the SGOD in accordance with the requirements of this Section X. A Project must contain either Commercial/Mixed Use Area, a Low Impact Residential Area, or a combination of the two.

**Special Permit**

A specific authorized use within this Zoning By-Law that may be granted upon application to the designated special permit granting authority.

**SGOD**

The Smart Growth Overlay District established in accordance with this Section X.

**Street**

Any accepted town way, a way established by or maintained under county, state or federal authority, a way established by and constructed according to a subdivision plan approved in accordance with the Subdivision Control Law, and a way determined by the Planning Board to have sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land, and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon. A public or private way shall not be deemed to be a street relative to any lot that does not have rights of access to and passage over said way.[Amended 1987]

**Townhome**

A one-family dwelling unit, with a private entrance, which is part of a structure whose dwelling units are attached horizontally in a linear arrangement, and having a totally exposed front and rear wall to be used for access, light, and ventilation.

**Zoning By-law**

The Zoning By-law of the Town of Manchester-by-Sea.

**3. OVERLAY DISTRICT**

3.1. **Establishment.** The **District Name** Smart Growth Overlay District, hereinafter referred to as the “**SGOD**,” is an overlay district having a land area of approximately 113 acres in size that is superimposed over the underlying zoning district (s) and is shown on the Zoning Map as set forth on the map entitled “[Name of District] Smart Growth Overlay District, dated **X** prepared by **X**.” This map is hereby made a part of the Zoning By-law and is on file in the Office of the Town Clerk.

**4. APPLICABILITY OF **SGOD****

4.1. **Applicability of SGOD.** An applicant may seek development of a Project located within the SGOD in accordance with the provisions of the Enabling Laws and this Section **X**, including a request for Plan Approval by the PAA. In such case, notwithstanding anything to the contrary in the Zoning By-law, such application shall not be subject to any other provisions of the Zoning By-law, including limitations upon the issuance of building permits for residential uses related to a rate of development or phased growth limitation or to a local moratorium on the issuance of such permits, or to other building permit or dwelling unit limitations.

4.2. **Underlying Zoning.** The SGOD is an overlay district superimposed on all underlying zoning districts. The regulations for use, dimension, and all other provisions of the Zoning Bylaw governing the underlying zoning district(s) shall remain in full force, except for those Projects undergoing development pursuant to this Section X. Within the boundaries of the SGOD, a developer may elect either to develop a Project in accordance with the requirements of the Smart Growth Zoning, or to develop a project in accordance with requirements of the regulations for use, dimension, and all other provisions of the Zoning Bylaw governing the underlying zoning district(s).

4.3. **Administration, Enforcement, and Appeals.** The provisions of this Section X shall be administered by the Building Commissioner, except as otherwise provided herein. Any legal appeal arising out of a Plan Approval decision by the PAA under Sections 9 through 13 shall be governed by the applicable provisions of G. L. Chapter 40R. Any other request for enforcement or appeal arising under this Section X shall be governed by the applicable provisions of G. L. Chapter 40A.

**5. PERMITTED USES**

5.1. The following uses are permitted Projects within the SGOD.

<b>PRINCIPAL USES</b>	
<b>Residential Uses</b>	
Assisted Living Facility	Permitted By-Right. (See 5.2 and 5.4)
Live/Work Space	Permitted By-Right (See 5.2 and 5.4)
Multi-Family Dwelling Unit	Permitted By-Right. (See 5.2.)
Single Family Dwelling Unit	Permitted By-Right. (See 5.2 and X.)
Mixed-Use	Permitted By-Right (See 5.2)
Nursing Home	Permitted By-Right (See 5.2 and 5.4)
<b>Non-Residential Uses (See 5.4)</b>	
Animal Grooming Service	Permitted By-Right
Auditorium, theater or place of public assembly	Permitted By-Right
Bank and Financial Institutions	Permitted By-Right
Brewery, Distillery, or Winery	Permitted By-Right
Car-Sharing Services	Permitted By-Right
Clinic, Medical or Dental	Permitted By-Right
Cultural Center	Permitted By-Right
Farmers' Market	Permitted By-Right
Grocery Store	Permitted By-Right
Health Club/Fitness Center	Permitted By-Right

Hotel	Permitted By-Right
Kennel	Permitted By-Right
Light Industry	Permitted By-Right
Municipal and Utility Services	Permitted By-Right
Offices, Business and Professional	Permitted By-Right
Personal Services Establishment	Permitted By-Right
Recreational Club or Facilities	Permitted By-Right
Research and Development	Permitted By-Right
<b>ACCESSORY USES (See 5.4)</b>	
Eating and drinking establishments, incidental to a principal non-commercial use	Permitted by Special Permit
Retail uses, incidental to a principal non-commercial use	Permitted by Special Permit
Accessory uses customarily incidental to any of the above permitted uses, irrespective of whether such use is located on the same lot as the principal use, provided that the principal use to which such use is accessory shall be clearly identified	Permitted by Special Permit
Parking accessory to any of the above permitted uses, including surface, garage-under, and structured parking	Permitted By-Right
Rooftop Solar	Permitted By-Right

5.2. **Other Uses.** Any other uses not expressly permitted in 5.1 are prohibited, except as required by State statute.

## 6. HOUSING AND HOUSING AFFORDABILITY

6.1. **Number of Affordable Housing Units.** For all Projects containing at least 13 residential units, not less than twenty percent (20%) of housing units constructed shall be Affordable Housing. For purposes of calculating the number of units of Affordable Housing required within a Project, any fractional unit shall be deemed to constitute a whole unit. [A Project shall not be segmented to evade the Affordability threshold set forth above.]

6.2. **Monitoring Agent.** A Monitoring Agent which may be the local housing authority or other qualified housing entity shall be designated by the [PAA, chief executive, or other designated municipal official] (the “designating

official”). In a case where the Monitoring Agent cannot adequately carry out its administrative duties, upon certification of this fact by the designating official or by DHCD such duties shall devolve to and thereafter be administered by a qualified housing entity designated by the designating official. In any event, such Monitoring Agent shall ensure the following, both prior to issuance of a Building Permit for a Project within the SGOD, and on a continuing basis thereafter, as the case may be:

- Prices of Affordable Homeownership Units are properly computed; rental amounts of Affordable Rental Units are properly computed;
- Income eligibility of households applying for Affordable Housing is properly and reliably determined;
- The housing marketing and resident selection plan conform to all requirements, have been approved by DHCD specifically with regard to conformance with M.G.L. c.40R and 760 CMR 59.00, and are properly administered;
- Sales and rentals are made to Eligible Households chosen in accordance with the housing marketing and resident selection plan with appropriate unit size for each household being properly determined and proper preference being given; and
- Affordable Housing Restrictions meeting the requirements of this section are approved by DHCD specifically with regard to conformance with M.G.L. c.40R and 760 CMR. 59.00, recorded with the proper registry of deeds.

**6.3. Submission Requirements.** As part of any application for Plan Approval for a Project within the SGOD submitted under Sections 9.0 through 13.0 (or, for Projects not requiring Plan Approval, prior to submission of any application for a Building Permit), the Applicant must submit the following documents to the PAA and the Monitoring Agent:

- Evidence that the Project complies with the cost and eligibility requirements of Section 6.4;
- Project plans that demonstrate compliance with the requirements of Section 6.5; and
- A form of Affordable Housing Restriction that satisfies the requirements of Section 6.6.

These documents in combination, to be submitted with an application for Plan Approval (or, for Projects not requiring Plan Approval, prior to submission of any application for a Building Permit), shall include details about construction

related to the provision, within the development, of units that are accessible to the disabled and appropriate for diverse populations, including households with children, other households, individuals, households including individuals with disabilities, and the elderly.

**6.4. Cost and Eligibility Requirements.** Affordable Housing shall comply with the following requirements:

- Affordable Housing required to be offered for rent or sale shall be rented or sold to and occupied only by Eligible Households.
- For an Affordable Rental Unit, the monthly rent payment, including utilities and parking, shall not exceed 30 percent of the maximum monthly income permissible for an Eligible Household, assuming a family size equal to the number of bedrooms in the unit plus one, unless other affordable program rent limits approved by the DHCD shall apply.
- For an Affordable Homeownership Unit the monthly housing payment, including mortgage principal and interest, private mortgage insurance, property taxes, condominium and/or homeowner's association fees, insurance, and parking, shall not exceed 30 percent of the maximum monthly income permissible for an Eligible Household, assuming a family size equal to the number of bedrooms in the unit plus one.

Prior to the granting of any [Building Permit or Plan Approval] for a Project, the Applicant must demonstrate, to the satisfaction of the Monitoring Agent, that the method by which such affordable rents or affordable purchase prices are computed shall be consistent with state or federal guidelines for affordability applicable to Manchester-by-the-sea.

**6.5. Design and Construction.** Units of Affordable Housing shall be finished housing units. Units of Affordable Housing shall be equitably dispersed proportionately throughout the residential portions of the Project of which they are part, across all buildings, floors and unit types, consistent with the Affordable Housing Restriction and Affirmative Fair Housing Marketing and Resident Selection Plan, as approved by DHCD. The Affordable Housing units shall be comparable in initial construction quality, size and exterior design to the other housing units in the Project. Unless expressly required otherwise under one or more applicable state or federal housing subsidy programs, the bedroom-per-unit average for the Affordable Housing must be equal to or greater than the bedroom-per-unit average for the unrestricted/market-rate units.

**6.6. Affordable Housing Restriction.** Each Project shall be subject to an Affordable Housing Restriction which is recorded with the appropriate registry of deeds or district registry of the Land Court and which contains the following:

- Specification of the term of the Affordable Housing Restriction which shall be no less than thirty years;
- The name and address of the Monitoring Agent with a designation of its power to monitor and enforce the Affordable Housing Restriction;
- With respect to homeownership Projects or portions of Projects, a description of the Affordable Homeownership Unit by address and number of bedrooms; the Affordable Housing Restriction shall apply to the Affordable Homeownership Units.
- With respect to rental Projects or portions of Projects, a description of the overall quantity, initial unit designations, number of bedrooms, and number of bedroom types of Affordable Rental Units. The Affordable Housing Restriction shall apply to a percentage of rental units of a rental Project with the initially designated Affordable Rental Units identified and able to float, subject to specific approval by DHCD, in accordance with the Project's affirmative fair housing marketing and residential selection plan and applicable DHCD guidance.
- Reference to an affirmative fair housing marketing and resident selection plan, to which the Affordable Housing units are subject, and which includes an affirmative fair housing marketing program, including public notice and a fair resident selection process. Such plan shall include a preference based on need for number of bedrooms in a unit, consistent with applicable DHCD guidance;
- A requirement that buyers or tenants will be selected at the initial sale or initial rental and upon all subsequent sales and rentals from a list of Eligible Households compiled in accordance with the housing marketing and selection plan;
- Reference to the formula pursuant to which rent of an Affordable Rental Unit or the maximum resale price of an Affordable Homeownership Unit will be set;
- A requirement that only an Eligible Household may reside in Affordable Housing and that notice of any lease of any Affordable Rental Unit shall be given to the Monitoring Agent;
- Provision for effective monitoring and enforcement of the terms and provisions of the Affordable Housing Restriction by the Monitoring Agent;
- A requirement that the Affordable Housing Restriction on an Affordable Homeownership Unit shall run in favor of the Monitoring Agent and/or

the municipality, in a form approved by municipal counsel, and shall limit initial sale and re-sale to and occupancy by an Eligible Household;

- A requirement that the AHR on Affordable Rental Units in a rental Project or rental portion of a Project shall run with the rental Project or rental portion of a Project and shall run in favor of the Monitoring Agent and/or the municipality, in a form approved by municipal counsel, and shall limit rental and occupancy to an Eligible Household;
- A requirement that the owner[s] or manager[s] of Affordable Rental Unit[s] shall file an annual report to the Monitoring Agent, in a form specified by that agent certifying compliance with the Affordability provisions of this Bylaw and containing such other information as may be reasonably requested in order to ensure affordability; and
- A requirement that residents in Affordable Housing provide such information as the Monitoring Agent may reasonably request in order to ensure affordability.

6.7. **Costs of Housing Marketing and Selection Plan.** The housing marketing and selection plan may make provision for payment by the Project applicant of reasonable costs to the Monitoring Agent to develop, advertise, and maintain the list of Eligible Households and to monitor and enforce compliance with affordability requirements.

6.8. **Age Restrictions.** Nothing in this Section X shall permit the imposition of restrictions on age upon Projects unless proposed or agreed to voluntarily by the Applicant. However, the PAA may, in its review of a submission under Section 6.3, allow a specific Project within the SGOD designated exclusively for the elderly, persons with disabilities, or for assisted living, provided that any such Project shall be in compliance with all applicable federal, state and local fair housing laws and regulations and not less than twenty-five percent (25%) of the housing units in such a restricted Project shall be restricted as Affordable units.

6.9. **Phasing.** For any Project that is approved and developed in phases in accordance with Section 9.4, the percentage of Affordable units in each phase shall be at least equal to the minimum percentage of Affordable Housing required under Section 6.1. Where the percentage of Affordable Housing is not uniform across all phases, the unit dispersal and bedroom proportionality requirements under Section 6.5 shall be applied proportionate to the Affordable Housing provided for in each respective phase.

6.10. **No Waiver.** Notwithstanding anything to the contrary herein, the Affordability provisions in this Section 6.0 shall not be waived unless expressly approved in writing by DHCD.

7. **DIMENSIONAL AND DENSITY REQUIREMENTS**

7.1. **Table of Requirements.** Notwithstanding anything to the contrary in this Zoning Bylaw, the dimensional requirements applicable in the SGOD are as follows:

<b>Dimensional Requirement</b>	<b>Maximum Building Height or Maximum Stories</b>
Maximum Building Height	38’/3 Stories
Minimum Lot Frontage	N/A
Minimum Lot Area	N/A
Minimum Front Setback	15’
Minimum Open Space, Preserved	25%
Minimum Open Space, Useable	10% of Commercial/Mixed Area or Low Impact Residential Area (See <b>Section X</b> )

7.2. **Density Allowances/ Residential Uses.** Subject to consistency the minimum residential densities for Residential use that must be allowed under the Governing Laws on land qualifying as Developable Land, as approved by DHCD, the maximum number of Multi-Family and Single-Family Residential units permitted by right in the SGOD is capped at 255. For proposed residential units above the established cap, such units may be permitted through Special Permit, which may be granted at the sole discretion of the Planning Board.

7.3. **Non-Residential Uses in SGOD.** The total gross floor area devoted to non-residential uses within the SGOD shall not exceed 49% of the total gross floor area of total development planned, permitted, or constructed.

7.4. **Multiple Buildings and Uses.** Multiple buildings and uses are permitted on a lot, provided they conform to **Section 8** Design Standards.

7.5. **Sensitive Environmental Areas Buffer.** Development must not occur within 100 feet of any wetlands or streams.

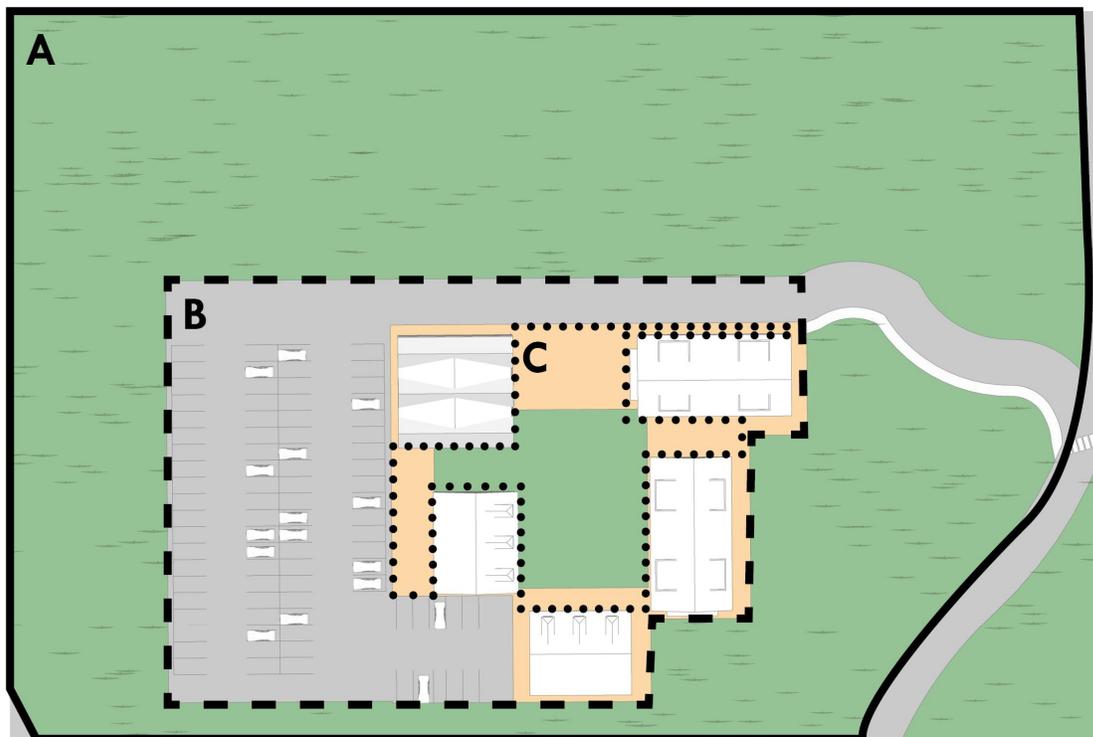
7.6. **Single Family Residential Building Requirements.** Single family residences are subject to the following requirements:

- **Building Style.** Single family residences are required to be constructed as either cottages or townhomes. Townhomes may be attached dwellings with no more than 4 attached units. See **Section X** Design Standards.
- **Buffer Requirements.** Single family residences shall be buffered from other uses in the District by a distance of not less than 150 feet by open

space and subject to the requirements of **Section X** Design Standards. This requirement may be waived or reduced by Special Permit from the Planning Board at its sole discretion that such waiver or reduction will improve the overall design of the site.

- **Building Size.** To encourage a diversity of the Town’s housing stock single family residential dwelling size shall not exceed 1,500 square feet.
- **Distance between dwellings.** Minimum distance between structures is 15 feet. Townhomes with a shared wall are exempt but otherwise are subject to this requirement.
- **Building arrangement.** Dwellings shall be arranged as clusters of homes organized around shared open spaces and subject to the requirements of **Section X** Design Standards.

7.7. **Useable Open Space Calculation.** The minimum percentage of useable open space is calculated as a percentage of a commercial/mixed-use area or low-impact residential area and excludes preserved open space, undeveloped areas, and access driveways to the development area. The following explains the calculation.



A	Total Lot Area	Includes areas to be developed, preserved open spaces, areas not currently proposed to be developed, driveways
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		and access roads
<b>B</b>	Development Area	Includes buildings, parking, interstitial spaces, useable open spaces, and areas associated with development, such as loading areas, utilities, and the like.
<b>C</b>	Useable Open Space	Includes passive and active recreation areas, including plazas, playgrounds, parkland, and seating
<b>Required Useable Open Space = 10% x B</b>		
<b>Illustrative Example:</b>		
Total Lot Area (A) = 4 acres		
Development Area (B) = 1 acre		
Required Preserved Open Space: 25% of Total Lot Area = 1 acre		
Required Useable Open Space: 10% of Development Area = 0.1 acre		

## 8. DESIGN STANDARDS

8.1. **Adoption of Design Standards.** Any Project undergoing the Plan Approval process shall be subject to design standards, as set forth below in this **Section X** and in a separate document entitled **LCD 40R Design Standards** (collectively, “Design Standards”).

8.2. **Purpose.** The Design Standards are adopted to ensure that the physical character of Projects within the **SGOD**:

- Will be complementary to nearby buildings and structures to create a cohesive neighborhood;
- Will protect the natural features of the district; and
- Will provide for higher-density quality development consistent with the character of building types, streetscapes, and other community features traditionally found in New England towns.

8.3. **Design Standards Adoption.** The Plan Approval Authority may adopt, by simple majority vote, Design Standards which shall be applicable to Development Projects subject to Plan Approval by the Plan Approval Authority. Such Design Standards must be objective and not subjective and may only address the scale and proportions of buildings, the alignment, width, and grade of streets and sidewalks, the type and location of infrastructure, the location of building and garage entrances, off street parking, the protection of significant natural site features, the location and design of on-site open spaces, exterior signs, and buffering in relation to adjacent properties. DHCD may, at its discretion, may require Design Standards to contain graphics illustrating a particular standard or definition in order to make such standard or definition clear and understandable.

- 8.4. **DHCD Approval.** After adopting Design Standards, the PAA shall submit Design Standards to DHCD for approval. Design Standards shall not take effect until approved by DHCD and filed with the Town Clerk. In submitting proposed Design Standard for DHCD approval, the PAA shall also submit sufficient documentation clearly showing that the proposed Design Standards will not add unreasonable costs to Development Projects or unreasonably impair the economic feasibility of a Development Project. A letter from a developer, property owner or other interested party indicating that the Design Standards will not add unreasonable costs or unreasonably impair the economic feasibility of a Development Project shall not constitute sufficient documentation. At its discretion, DHCD may disapprove Design Standards if it finds that the PAA has not adopted objective Design Standards or has not submitted such documentation.
- 8.5. **Plan Approval.** An application for Plan Approval that has been submitted to the Town Clerk pursuant to this **Section X** shall not be subject to Design Standards that have not been approved by DHCD and filed with the Town Clerk.
- 8.6. **Types of Projects.** Buildings shall be configured and oriented as either a Low Impact Residential Area or a Commercial/Mixed-Use Area and subject to the requirements of the Design Standards. A project may contain more than one of these areas.
- 8.7. **Design Standards.** See the document entitled **LCD 40R Design Standards** for requirements related to:
- Overall Design Concept
  - Pedestrian Experience
  - Integration with Nature/Sustainability
  - Connectivity
  - Buildings

## 9. PARKING REQUIREMENTS

- 9.1. **Number of Parking Spaces.** Unless otherwise approved by the PAA, the following minimum/maximum numbers of off-street parking spaces shall be provided by use, either in surface parking, within garages or other structures:

USE	Number of Parking Spaces
Residential Use, excluding age-restricted	1.5 spaces per unit

USE	Number of Parking Spaces
housing	
Residential use, age-restricted housing	0.5 spaces per unit
Non-Residential Uses, unless otherwise stated in this Table	4 spaces per 1,000 SF of Net Floor Area
Light Industry, including Research and Development	2.5 spaces per 1,000 SF of Net Floor Area
Hotel	1 space per room, plus 1 space per 20 rooms (to accommodate staff), plus 75 percent of the normal spaces required for accessory uses
Recreational Facilities	1 space per 5 persons based upon maximum allowable occupancy
Kennel	2.5 spaces per 1,000 SF Net Floor Area

- 9.2. **Shared Parking.** Notwithstanding anything to the contrary herein, the use of shared parking to fulfill parking demands noted above that occur at different times of day is strongly encouraged. Minimum parking requirements above may be reduced by the PAA through the Plan Approval process (or, for Projects not requiring Plan Approval, prior to submission of any application for a Building Permit), if the applicant can demonstrate that shared spaces will meet parking demands by using accepted methodologies (e.g. the Urban Land Institute Shared Parking Report, ITE Shared Parking Guidelines, or other approved studies).
- 9.3. **Reduction in parking requirements.** Notwithstanding anything to the contrary herein, any minimum required amount of parking may be reduced by the PAA through the Plan Approval process (or, for Projects not requiring Plan Approval, prior to submission of any application for a Building Permit), if the applicant can demonstrate that the lesser amount of parking will not cause excessive congestion, endanger public safety, or that lesser amount of parking will provide positive environmental or other benefits, taking into consideration:
- The availability of surplus off street parking in the vicinity of the use being served and/or the proximity of a bus stop or transit station;
  - The availability of public or commercial parking facilities in the vicinity of the use being served;
  - Shared use of off street parking spaces serving other uses having peak user demands at different times;
  - Age or other occupancy restrictions which are likely to result in a lower level of auto usage;
  - Impact of the parking requirement on the physical environment of the affected lot or the adjacent lots including reduction in green space, destruction of significant existing trees and other vegetation, destruction

of existing dwelling units, or loss of pedestrian amenities along public ways; and

- Such other factors as may be considered by the PAA.

9.4. **Location of Parking.** See **Section X** Design Standards for requirements related to the location of parking.

## 10. SIGN REQUIREMENTS

10.1. **General Provisions.** Exterior signs pertaining to uses on the same premises as the location of such sign are permitted upon the issuance of a permit by the Building Inspector subject to the following restrictions:

- 10.1.1. No sign shall obstruct visibility in such a way as to constitute a hazard to the safety of persons travelling upon a public way.
- 10.1.2. The top edge of such sign, whether freestanding or not, shall be placed not higher than the average height of the main roofs of the buildings on the property.
- 10.1.3. Such signs may be illuminated only from the exterior of the advertising matter.
- 10.1.4. No sign shall exceed one hundred square feet gross display area.
- 10.1.5. Each business unit is permitted not more than two signs, but excluded from this sub-section are signs necessary for public safety or convenience.
- 10.1.6. No business and commercial signs of general advertising nature, which do not pertain to a structure or use on the same premises as the location of such sign shall be permitted.

### 10.2. Additional Standards Applicable to All Signs.

- 10.2.7. No signs shall be affixed upon or painted on any rock, tree, utility pole, or town sign on public property.
- 10.2.8. No signs shall obstruct visibility of vehicular traffic.
- 10.2.9. Nothing herein shall be construed to prohibit the placement within the District of street signs, traffic signs, directional signs or any other governmental authority or agency signs.
- 10.2.10. Any lawful sign existing at the time this amendment to the Bylaw is adopted may be continued, although such signs do not conform to the provisions hereof.

- 10.2.11. Any total replacement or substantial change of an existing sign shall be required to conform to the above provisions.
- 10.2.12. Signs shall be affixed and maintained in such a way as to be safe and free of hazard to the public, and shall be maintained in good repair.
- 10.2.13. No sign or display may be moving or make use of blinking or intermittent lights or any other animation.

## 11. PLAN APPROVAL OF PROJECTS: GENERAL PROVISIONS

- 11.1. **Plan Approval.** An application for Plan Approval shall be reviewed by the PAA for consistency with the purpose and intent of Sections 9.0 through 13.0. Such Plan Approval process shall be construed as an As-of-Right review and approval process as required by and in accordance with the Enabling Laws. The following categories of Projects shall be subject to the Plan Approval process:
  - Any Residential Project containing at least 10 residential units;
  - Any project containing non-residential uses; and
  - Any Project seeking a waiver.
- 11.2. **Plan Approval Authority (PAA).** The **Planning Board**, consistent with G.L. Chapter 40R and 760 CMR 59.00, shall be the Plan Approval Authority (the “PAA”), and it is authorized to conduct the Plan Approval process for purposes of reviewing Project applications and issuing Plan Approval decisions within the SGOD.
- 11.3. **PAA Regulations.** The Plan Approval Authority may adopt administrative rules and regulations relative to Plan Approval. Such rules and regulations and any amendments thereof must be approved by the Department of Housing and Community Development.
- 11.4. **Project Phasing.** An Applicant may propose, in a Plan Approval submission, that a Project be developed in phases, provided that the submission shows the full buildout of the Project and all associated impacts as of the completion of the final phase, and subject to the approval of the PAA. Any phased Project shall comply with the provisions of Section 6.9.

## 12. PLAN APPROVAL PROCEDURES

- 12.1. **Preapplication.** Prior to the submittal of a Plan Approval submission, a “Concept Plan” may be submitted to help guide the development of the

definitive submission for Project buildout and individual elements thereof. Such Concept Plan should reflect the following:

- Overall building envelope areas;
- Open space and natural resource areas; and
- General site improvements, groupings of buildings, and proposed land uses.

The Concept Plan is intended to be used as a tool for both the Applicant and the PAA to ensure that the proposed Project design will be consistent with the Design Standards and other requirements of the SGOD.

- 12.2. **Required Submittals.** An application for Plan Approval shall be submitted to the PAA on the form provided by the PAA and approved by DHCD, [along with application fee(s)] which shall be as set forth in the PAA Regulations. The application shall be accompanied by such plans and documents as may be required and set forth in the PAA Regulations. For any Project that is subject to the Affordability requirements of Section 6.0, the application shall be accompanied by all materials required under Section 6.3. All site plans shall be prepared by a certified architect, landscape architect, and/or a civil engineer registered in the Commonwealth of Massachusetts. All landscape plans shall be prepared by a certified landscape architect registered in the Commonwealth of Massachusetts. All building elevations shall be prepared by a certified architect registered in the Commonwealth of Massachusetts. All plans shall be signed and stamped, and drawings prepared at a scale of one inch equals forty feet (1"=40') or larger, or at a scale as approved in advance by the PAA.
- ~~12.3.~~ **Filing.** An Applicant for Plan Approval shall file the required number of copies of the application form and the other required submittals as set forth in the PAA Regulations with the Town Clerk and a copy of the application including the date of filing certified by the Town Clerk shall be filed forthwith with the PAA.
- 12.4. **Circulation to Other Boards.** Upon receipt of the application, the PAA shall immediately provide a copy of the application materials to the Board of Selectmen, Board of Appeals, Board of Health, Conservation Commission, Fire Department, Police Department, Building Commissioner, Department of Public Works, the Monitoring Agent (for any Project subject to the Affordability requirements of Section 6.0), and other municipal officers, agencies or boards for comment, and any such board, agency or officer shall provide any written comments within 60 days of its receipt of a copy of the plan and application for approval.
- 12.5. **Hearing.** The PAA shall hold a public hearing for which notice has been given as provided in Section 11 of G.L. Chapter 40A. The decision of the

PAA shall be made, and a written notice of the decision filed with the Town Clerk, within 120 days of the receipt of the application by the Town Clerk. The required time limits for such action may be extended by written agreement between the Applicant and the PAA, with a copy of such agreement being filed in the office of the Town Clerk. Failure of the PAA to take action within said 120 days or extended time, if applicable, shall be deemed to be an approval of the Plan Approval application.

- 12.6. **Peer Review.** The Applicant shall be required to pay for reasonable consulting fees to provide peer review of the Plan Approval application, pursuant to G.L. Chapter 40R, Section 11(a). Such fees shall be held by the Town in a separate account and used only for expenses associated with the review of the application by outside consultants, including, but not limited to, attorneys, engineers, urban designers, housing consultants, planners, and others. Any surplus remaining after the completion of such review, including any interest accrued, shall be returned to the Applicant forthwith.

### 13. PLAN APPROVAL DECISIONS

- 13.1. **Plan Approval.** Plan Approval shall be granted where the PAA finds that:

- The Applicant has submitted the required fees and information as set forth in the PAA Regulations;
- The Project as described in the application meets all of the requirements and standards set forth in this Section X and the PAA Regulations, or a waiver has been granted therefrom; and
- Any extraordinary adverse potential impacts of the Project on nearby properties have been adequately mitigated.

For a Project subject to the Affordability requirements of Section 6.0, compliance with condition (2) above shall include written confirmation by the Monitoring Agent that all requirements of that Section have been satisfied. The PAA may attach conditions to the Plan Approval decision that are necessary to ensure substantial compliance with this Section X, or to mitigate any extraordinary adverse potential impacts of the Project on nearby properties.

- 13.2. **Plan Disapproval.** A Plan Approval application may be disapproved only where the PAA finds that:

- The Applicant has not submitted the required fees and information as set forth in the Regulations; or
- The Project as described in the application does not meet all of the requirements and standards set forth in this Section X and the PAA Regulations, or that a requested waiver therefrom has not been granted;

or

- It is not possible to adequately mitigate significant adverse Project impacts on nearby properties by means of suitable conditions.

- 13.3. **Waivers.** Upon the request of the Applicant and subject to compliance with M.G.L. c. 40R, 760 CMR 59.00 and Section 6.10, the Plan Approval Authority may waive dimensional and other requirements of Section X, including the Design Standards, in the interests of design flexibility and overall project quality, and upon a finding of consistency of such variation with the overall purpose and objectives of the SGOD, or if it finds that such waiver will allow the Project to achieve the density, affordability, mix of uses, and/or physical character allowable under this Section X.
- 13.4. **Project Phasing.** The PAA, as a condition of any Plan Approval, may allow a Project to be phased at the request of the Applicant, or it may require a Project to be phased for the purpose of coordinating its development with the construction of Planned Infrastructure Improvements (as that term is defined under 760 CMR 59.00), or to mitigate any extraordinary adverse Project impacts on nearby properties. For Projects that are approved and developed in phases, unless otherwise explicitly approved in writing by the Department in relation to the specific Project, the proportion of Affordable units shall be at least equal to the minimum percentage of Affordable Housing required under Section 6.1.
- 13.5. **Form of Decision.** The PAA shall issue to the Applicant a copy of its decision containing the name and address of the owner, identifying the land affected, and the plans that were the subject of the decision, and certifying that a copy of the decision has been filed with the Town Clerk and that all plans referred to in the decision are on file with the PAA. If twenty (20) days have elapsed after the decision has been filed in the office of the Town Clerk without an appeal having been filed or if such appeal, having been filed, is dismissed or denied, the Town Clerk shall so certify on a copy of the decision. If a plan is approved by reason of the failure of the PAA to timely act, the Town Clerk shall make such certification on a copy of the application. A copy of the decision or application bearing such certification shall be recorded in the registry of deeds for the county and district in which the land is located and indexed in the grantor index under the name of the owner of record or recorded and noted on the owner's certificate of title. The fee for recording or registering shall be paid by the Applicant.

#### 14. CHANGE IN PLANS AFTER APPROVAL BY PAA

- 14.1. **Minor Change.** After Plan Approval, an Applicant may apply to make minor changes in a Project involving minor utility or building orientation adjustments, or minor adjustments to parking or other site details that do not

affect the overall buildout or building envelope of the site, or provision of open space, number of housing units, or housing need or affordability features. Such minor changes must be submitted to the PAA on redlined prints of the approved plan, reflecting the proposed change, and on application forms provided by the PAA. The PAA may authorize such changes at any regularly scheduled meeting, without the need to hold a public hearing. The PAA shall set forth any decision to approve or deny such minor change by motion and written decision, and provide a copy to the Applicant for filing with the Town Clerk.

- 14.2. **Major Change.** Those changes deemed by the PAA to constitute a major change in a Project because of the nature of the change in relation to the prior approved plan, or because such change cannot be appropriately characterized as a minor change as described above, shall be processed by the PAA as a new application for Plan Approval pursuant to Sections 9.0 - through 13.0.

## 15. SEVERABILITY.

- 15.1. If any provision of this Section X is found to be invalid by a court of competent jurisdiction, the remainder of Section X shall not be affected but shall remain in full force. The invalidity of any provision of this Section X shall not affect the validity of the remainder of the Town's Zoning By-law.