

# ZONING ORDINANCE



## Housing related Zoning Amendments (Round 2)

Draft #1, July 26, 2021  
Draft #2, October 18, 2021  
Draft #3, October 25, 2021  
Draft #4, November 15, 2021  
Draft #5, November 17, 2021  
Draft #6, December 30, 2021

# Easthampton, Massachusetts

**“Appendix G”  
Zoning Ordinance & Map  
of the  
Code of Ordinances of the  
City of Easthampton, Massachusetts**

This zoning ordinance was adopted by vote of Town Meeting  
on January 18, 1995

*(All amendments adopted thereafter are incorporated herein)*

**Appendix G\***

**CITY OF EASTHAMPTON**

**ZONING ORDINANCE AND MAP**

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**\*Editor's note:** This appendix contains the town zoning Bylaw which was adopted by the town on January 18, 1995 as approved by the Attorney General on March 10, 1995. It supercedes the zoning Bylaws of 1951 and 1972. The original section catch lines have been retained by the editor. It was changed from a by-law to ordinance by vote of the City Council on March 21, 2000; approved by the Mayor on March 22, 2000.

**Cross references:** Buildings and building regulations, Ch. 4; classification of buildings by use for construction purposes, 4-64.

**State Law Reference:** Authority of town to adopt zoning Bylaw, chapter 808 of the Acts of 1975.

**Section VII. SPECIAL DISTRICT REGULATIONS**

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14.2

**Effective Date SECTION V. USE REGULATIONS**

**5.0 APPLICABILITY OF USE REGULATIONS**

Except as provided in the Zoning Act or in this ordinance, no building, structure, or land shall be used except for the purposes permitted in the district as described in this section. Any use not listed shall be construed to be prohibited.

**5.1 PERMITTED USES**

The restrictions and controls intended to regulate development in each district are set forth in Table 5-1 Use Regulations as follows:

- P - Use Permitted by Right in the District
- PA - Use Permitted with Site Plan Approval in the District from the Planning Board in accordance with Section XII.
- SP - Use Permitted by Special Permit in the District from the Zoning Board of Appeals, in accordance with Section XII
- SPB - Use Permitted by Special Permit in the District from the Planning Board, in accordance with Section XII
- Use Prohibited

**5.2 USES SUBJECT TO OTHER REGULATIONS**

Uses permitted by right or by special permit shall be subject, in addition to use regulations, to all other provisions of this ordinance.

**5.3 TABLE OF USE REGULATIONS**

**5.31 See Table 5-1 on accompanying pages which is declared to be a part of this ordinance.**

**5.32 Aquifer Protection District**

See Section 7.0, the Aquifer Protection District, to determine what uses are permitted.

**5.33 Flood Plain Zoning District/Manhan River Protection District**

See Section 7.1, the Flood Plain Zoning District, to determine what uses are permitted.

**SECTION V – Easthampton Table of Use Regulations**

**Key to abbreviations used in the following Table of Use Regulations  
(Table 5-1)**

<b>Districts</b>			
R-5	Residential - Urban	DB	Downtown Business
R-10	Residential - Suburban B	HB	Highway Business
R-15	Residential - Suburban A	NB	Neighborhood Business
R-35	Residential - Rural C	I	Industrial
R-40	Residential - Rural B (Aquifer Drift Area)	MI	Mixed Use / Mill Industrial
R-80	Residential - Rural A (Aquifer Till Area)		

<b>Permitted Uses / Permitting Process</b>	
–	Use Prohibited
P	Use Permitted by Right
PA	Use Permitted by Site Plan Approval from the Planning Board (see Section 12.9)
SP	Use Permitted by Special Permit from the Zoning Board of Appeals (see Section 12.7)
SPB	Use Permitted by Special Permit from the Planning Board (see Section 12.7)

**Table 5-1 – Easthampton Table of Use Regulations**

Uses	Standards and Conditions	Zoning Districts <sup>1</sup>											
		R-5	R-10	R-15	R-35	R-40	R-80	DB <sup>2</sup>	HB	NB	I	MI	
<b>RESIDENTIAL</b>													
1. Single-family detached dwelling		P	P	P	P	P	P	-	-	-	-	-	-
2. Duplex		P	P	P	SP	-	-	-	-	-	-	-	-
3. Multifamily dwelling	See Section 8.3 for additional standards	PA <sup>3</sup>	SPB	SPB <sup>4</sup>	SPB <sup>5</sup>	-	-	PA	SPB	SPB	-	SPB	
4. Multifamily dwellings with 15% affordable housing <sup>6</sup>	See Section 8.3 for additional standards	PA	PA	PA <sup>7</sup>	PA <sup>8</sup>	-	-	PA <sup>9</sup>	PA	PA	-	PA	
5. Conversion of existing one-family dwelling to two-family dwelling		SP	SP	SP	SP	-	-	-	-	-	-	-	-
6. Conversion of existing one-family dwellings to three- and four-family		SP	SP	SP	-	-	-	-	-	-	-	-	-
7. Accessory apartments	See Section 8.5 for additional standards	P	P	P	P	P	P	P	P	P	P	P	P
<b>RESIDENTIAL, cont.</b>													
8. Planned Unit Residential Development for Affordable Housing	See Section 8.6 for additional standards	PA	PA	PA	-	-	-	PA-	PA-	PA-	-	PA-	
9. Planned Unit Development for mixed uses	See Section 8.7 for additional standards	-	-	-	-	-	-	PA	SPB	SPB	SPB	SPB	
10. Open Space Residential Development	See Section 9.1 for additional standards	-	SPB	SPB	SPB	SPB	SPB	-	-	-	-	-	
11. Major Residential Development	See Section 7.2 for additional standards	P	P	P	P	P	P	-	-	-	-	-	

<sup>1</sup> See Section 7.0 for Aquifer Protection District use regulations and Section 7.1 for Floodplain and Manhan River Protection Zoning District use regulations when applicable

<sup>2</sup> New construction development in the Downtown Business District for a single use totaling over 4,000 sq. ft. shall require a special permit from the Planning Bd. under Section 12.7 added by the City Council on 09-02-2009; approved by the Mayor on 09-03-2009

<sup>3</sup> Amended by City Council 1-21-1997; further amended 10-15-2008.

<sup>4</sup> Amended 10-15-2008; Approved by Mayor 10-16-2008

<sup>5</sup> Amended 10-15-2008; Approved by Mayor 10-16-2008

<sup>6</sup> Amended 10-15-2008; Approved by Mayor 10-16-2008

<sup>7</sup> Amended by City Council 09-04-2001

<sup>8</sup> Amended 10-18-1995; Approved 01-10-1996

<sup>9</sup> Amended 10-15-2008; Approved by Mayor 10-16-2008

**Table 5-1 – Easthampton Table of Use Regulations**

Uses	Standards and Conditions	Zoning Districts <sup>1</sup>										
		R-5	R-10	R-15	R-35	R-40	R-80	DB <sup>2</sup>	HB	NB	I	MI
<b>RESIDENTIAL TEMPORARY</b>												
1. Temporary manufactured homes to be placed on the same lot as a residence which has been destroyed by fire or other natural holocaust	Temporary manufactured homes to be placed on the same lot as a residence which has been destroyed by fire or other natural holocaust. Such temporary living quarters may remain on the lot for 12 months while the residence is being rebuilt. Any such manufactured home shall be subject to the provisions of the state sanitary code. The term manufactured home includes mobile homes. <sup>1</sup>	P	P	P	P	P	P	P	P	P	P	SP

<b>COMMUNITY FACILITIES</b>												
1. Church or other religious purpose		P	P	P	P	P	P	P	P	P	P	P
2. Educational purpose which is on land owned or leased by the Commonwealth or any of its agencies, subdivisions, or bodies political; or by a religious sect or denomination; or by a nonprofit educational corporation.		P	P	P	P	P	P	P	P	P	P	P
3. Childcare facility		P	P	P	P	P	P	P	P	P	P	P

<sup>1</sup> Bylaw of 05-31-1979; Bylaw of 05-19-1982



## SECTION 7.4: SMART GROWTH ZONING OVERLAY DISTRICT (SGZD)<sup>1</sup>

### 7.41. PURPOSE

The purposes of this Section 7.4 are:

- a. To establish an Easthampton Smart Growth Zoning District and Sub-Districts, to encourage smart growth in accordance with the purposes of G. L. Chapter 40R;
- b. To provide a range of safe, quality, and affordable housing options for individuals and families of all ages and incomes;
- c. To create affordable housing that is consistent with the character of Easthampton's existing neighborhoods;
- d. To improve the quality of existing housing;
- e. To help increase access for low to moderate income households to affordable housing;
- f. To preserve the affordability of existing and new affordable units;
- g. To support private developers in their efforts to develop affordable housing;
- h. To encourage new development in the center city close to existing infrastructure and services, in order to protect open space and farmland in the outer reaches of the city.
- i. To encourage development types as delineated in the 2008 Master Plan and the Housing Production Plan.

### 7.42 DEFINITIONS

For purposes of this Section 7.4, the following definitions shall apply. All capitalized terms shall be defined in accordance with the definitions established under the ~~Enabling Laws~~Governing Laws or Section 7.42, or as set forth in the PAA Regulations. To the extent that there is any conflict between the definitions set forth in Section 7.42 or the PAA Regulations and the ~~Enabling Laws~~Governing Laws, the terms of the ~~Enabling Laws~~Governing Laws shall govern.

~~Monitoring Agent – the regional Housing Partnership (HAP, Inc.) or other qualified housing entity designated by the PAA to review and implement the Affordability requirements affecting Projects under Section 7.46~~

Affordable Homeownership Unit - an 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 (AHR) - a deed restriction of Affordable Housing meeting statutory requirements in G.L. Chapter 184, Section 31 and the requirements of Section 7.46 of this Ordinance.

Affordable Rental Unit - an Affordable Housing unit required to be rented to an Eligible Household.

Applicant – the individual or entity that submits a Project for Plan Approval.

As-of-right - a use allowed under Section 7.45 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 7.49 through 7.412 shall be considered an as-of-right Project, ~~subject to review and approval by~~

<sup>1</sup> Sec. 7.4 approved by the City Council on April 21, 2010; approved by Mayor Tautznik on April 22, 2010.

**Commented [RW(1)]:** The 40R regulations and guidelines now use this terminology

**Commented [RW(2)]:** Have just relocated relative to otherwise alphabetical listing

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DHCD of any SGZD regulations, guidelines, application forms, or other requirements applicable to applications for Plan Approval of Projects by the Plan Approval Authority under Section 7.4 and 760 CMR 59.00.

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Department or DHCD - the Massachusetts Department of Housing and Community Development.

Design Standards – means provisions of Section 7.413 made applicable to Projects within the SGZD that are subject to the Plan Approval process.

Dwelling Unit - One (1) or more rooms with cooking, living, sanitary and sleeping facilities arranged for the use of one (1) or more persons living together as a single housekeeping unit

Eligible Household - an individual or household whose annual income is less than **or equal to** 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.

**Commented [RW(3):** Reflects a corresponding clarification/correction to the statute, regulations, and guidelines for consistency with 40B/SHI

Enabling Laws~~Governing Laws~~ - G.L. Chapter 40R and 760 CMR 59.00.

Mixed-Use Development Project – a Project containing a mix of residential uses and non-residential uses, as allowed in Section 7.45, and subject to all applicable provisions of this Section 7.4.

Monitoring Agent – the regional Housing Partnership (HAP, Inc.) or other qualified housing entity designated by the PAA to review and implement the Affordability requirements affecting Projects under Section 7.46

Open Space -- Land that is not intensively developed for residential, commercial, industrial or institutional use. Open space can be publicly or privately owned and may include: agricultural and forested land, undeveloped riparian areas, scenic lands, public parks and recreation areas, and preserves. It also includes wetlands and water bodies such as ponds and vernal pools.

PAA Regulations – the rules and regulations of the PAA adopted pursuant to Section 7.493.

Plan Approval - standards and procedures which Projects in the SGZD must meet pursuant to Sections 7.49 through 7.413 and the ~~Enabling~~Governing Laws.

Plan Approval Authority (PAA) – The Easthampton Planning Board shall be the local approval authority authorized under Section 7.492 to conduct the Plan Approval process for purposes of reviewing Project applications and issuing Plan Approval decisions within the SGZD.

Project - a Residential Project or Mixed-use Development Project undertaken within the SGZD in accordance with the requirements of this Section 7.4.

Residential Project - a Project that consists solely of residential, **any allowed or required** parking, and accessory uses, as further defined in Section 7.451.

**Commented [RW(4):** Just a suggestion to make it clear that for purposes of broader 40R eligibility, parking is not a requirement, in the event the PAA were to waive parking for a particular Project

SGZD – the Smart Growth Zoning District established in accordance with this Section 7.4.

Smart Growth – a land use development technique that advocates compact, transit-oriented, walkable, bicycle-friendly land use, including mixed-use development with a range of housing choices to protect

open space and farmland, keep housing affordable, use infrastructure efficiently, and provide more transportation choices.

Townhouse – A dwelling unit in a group, extending from the foundation of the roof, with yard, landscaped areas, and/or open space on at least two sides, and separated by a fire-rated wall from any other dwelling unit, and each unit built on individual lots.

Zoning Ordinance - the Zoning Ordinance of the City of Easthampton.

**Commented [RW(5):** Just a suggestion because the way open space is defined above, doesn't seem to clearly include yard type areas.

**7.43 OVERLAY DISTRICT**

**7.431 Establishment.**

The Easthampton Smart Growth Zoning District, hereinafter referred to as the “SGZD,” is an overlay district that is superimposed over the underlying zoning district (s) and is shown on the Zoning Map as set forth on the map entitled “Easthampton Smart Growth Zoning District, dated April 21, 2010, prepared by the Pioneer Valley Planning Commission.” This map is hereby made a part of the Zoning Ordinance and is on file in the Office of the City Clerk.

Commented [RW(6)]: Will need to be updated to refer to map as proposed under the amendment?

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**7.432 Sub-districts.**

The SGZD contains the following sub-districts:

- a. Highway Corridor Mixed Use
- b. Downtown Mixed Use
- c. Traditional Neighborhood Village

**7.44 APPLICABILITY OF SGZD**

**7.441 Applicability of SGZD.**

An applicant may seek development of a Project located within the SGZD in accordance with the provisions of the Enabling Governing Laws and this Section 7.4, including a request for Plan Approval by the PAA. In such case, notwithstanding anything to the contrary in the Zoning Ordinance, such application shall not be subject to any other provisions of the Zoning Ordinance, 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.

**7.442 Underlying Zoning.**

The SGZD is an overlay district superimposed on all underlying zoning districts. The regulations for use, dimension, and all other provisions of the Zoning Ordinance governing the underlying zoning district(s) shall remain in full force, except for those Projects undergoing development pursuant to this Section 7.4. Within the boundaries of the SGZD, 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 Ordinance governing the underlying zoning district(s).

**7.443 Administration, Enforcement, and Appeals.**

The provisions of this Section 7.4 shall be administered by the Zoning Enforcement Officer, except as otherwise provided herein. Any legal appeal arising out of a Plan Approval decision by the PAA under Sections 7.49 through 7.413 shall be governed by the applicable provisions of MGL Chapter 40R.

**7.45 PERMITTED USES**

The restrictions and controls intended to regulate development in each Sub-district are set forth in Section 7.451 SGZD Table of Use as follows:

P	Use Permitted by Right in the District
PA	Use Permitted with Plan Approval in the District from the Planning Board in accordance with Section 7.49
N	Not permitted

All projects in a SGZD must have a residential use. Retail, service, and manufacturing uses will not be permitted without a residential component.

**Section 7.451 SGZD Table of Use**

Use Type	Standards and Conditions	Highway Corridor Mixed Use	Downtown Mixed Use	Traditional Neighborhood Village (TNV)
<b><u>RESIDENTIAL</u></b>				
<b>Single-family Residential Uses, Detached</b>		N	N	PA
<b>2 and 3 family Residential Uses</b>		PA	N	PA
<b>Townhouses</b>	Townhouses will be built on individual lots with zero side setback requirements.	PA	N	PA
<b>Multi-family Residential Uses (over 4 units)</b>	Not allowed on the ground floor, unless the unit is handicap accessible and is located in the back of the building. Ground floor units may be allowed for projects containing at least 51% of units as affordable or in other projects with a finding from the <del>Planning Board</del> PAA that the project advances the purposes listed under 7.41 and meets the objectives of the Smart Growth Design Standards.	PA	PA	N
<b>Assisted Living Residence</b>	Any entity, however organized, which provides room and/or board in an independent residential living environment, provides services to residents who do not require 24-hour skilled nursing care, but need assistance with activities of daily living, and collects payments for the provision of these services.	PA	PA	PA
<b>Nursing Home</b>	A 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.	PA	PA	N

Accessory Apartments		PA	PA	PA
<b>RETAIL AND SERVICE**</b>				
Convenience Market	Any retail establishment offering for sale a limited line of groceries and household items intended for the convenience of the neighborhood	PA	PA	PA
Use Type	<b>Standards and Conditions</b>		<b>Downtown Mixed Use</b>	<b>Traditional Neighborhood Village (TNV)</b>
<b>RETAIL AND SERVICE** (con't)</b>				
Supermarket	A retail establishment primarily selling food, as well as other convenience and household goods, which occupies more than 5,000 square feet of gross floor area	PA	PA	N
Professional Offices		PA	PA	PA
Pharmacy, drugstore		PA	PA	N
Child Care Center	Facilities that serve children under seven years of age or sixteen years if the children have special needs, or school-age children in programs that are held before or after school hours or during vacations	PA	PA	PA
Restaurants and bars	Not including drive-in or drive-through restaurants	PA	PA	N
Bakery, deli, butcher shop, fish market, caterer or similar establishment for the production and sale of food and beverage		PA	PA	PA
Bed-and-Breakfast Use		PA	PA	PA
Beauty or barber shop, hair salon, tanning salon, or similar establishment		PA	PA	PA, tanning salon not permitted
Laundry or dry cleaning establishment	In the TNV, drop off laundry or dry cleaning service permitted only.	PA	PA	PA
<b>MIXED USE**</b>				
Neighborhood scale mixed use development projects, allowing two		PA	PA	PA

or more uses within the same building				
Downtown scale mixed use development projects, allowing two or more uses within the same building		PA	PA	N

Use Type	Standards and Conditions	Highway Corridor Mixed Use	Downtown Mixed Use	Traditional Neighborhood Village (TNV)
	<b>MIXED USE** (con't)</b>			
Mill Renovation for Mixed Use		N	PA	N
	<b>WHOLESALE, TRANSPORTATION, &amp; INDUSTRIAL**</b>			
Research offices or establishments devoted to research and development		PA	PA	N
Wholesale trade and distribution		PA	PA	N
General manufacturing uses not commonly considered hazardous or noxious		PA	PA	N
Publishing, data processing	Shall be carried on by the occupants of the dwelling unit with no more than one non-resident employee	PA	PA	PA
Computer software manufacturing	The manufacture or assembly of a product including processing, blending, fabrication, assembly, treatment and package	PA	PA	N
Warehousing establishments	In the Downtown Mixed Use District, this use is only permitted in an <u>existing building</u>	PA	PA	N
Self Storage Facility	A building or group of buildings consisting of individual, self-contained units leased to individuals, organizations, or businesses for self-service storage of personal property.	PA	N	N

**Commented [RW(7)]:** Just curious if this is intended to refer to building in existence prior to adoption of the SGZD or any building that exists prior to the date of application for Plan Approval. Not a 40R issue but if the former, may want to clarify.

	<u>ACCESSORY USES</u>			



Use Type	Standards and Conditions	Downtown Mixed Use	Traditional Neighborhood Village
<b>ACCESSORY USES (con't)</b>			
Accessory uses customarily incidental to any of the above permitted uses.		PA	PA
Home Occupation	See Section 10.4 of the Easthampton Zoning Ordinance in effect as of <u>(Date)</u> for standards	N	PA
Family Home Day Care	Any private residence which on a regular basis, receives for temporary custody and care during part or all of the day, children under seven years of age or children under sixteen years of age if such children have special needs; provided, however, in either case, that the total number of children shall not exceed six	PA	PA
Church or other religious purpose		P	P
Educational Use	On land owned or leased by the Commonwealth or any of its agencies, subdivisions, or bodies political; or by a religious sect or denomination; or by a nonprofit educational corporation.	P	P

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Use Type	Standards and Conditions		Downtown Mixed Use	Traditional Neighborhood Village
<b>ACCESSORY USES (con't)</b>				
City administration building, fire or police station		PA	PA	N
Public park, conservation area and preserved open spaces	Including areas for passive and active recreation	P	P	P
City highway equipment and electric utility garage		PA	N	N
Agriculture, aquaculture, silviculture, horticulture, floriculture and viticulture	On parcels of five acres or more.	P	P	P

\* Permitted in Mixed-Use projects only, and not allowed on ground floor

\*\* Not permitted unless within a Mixed-Use Project

Additional notes:

- a. All uses not specifically mentioned in Table 7.4-1 are prohibited.
- b. The total gross floor area devoted to non-residential uses within a mixed-use development project shall not exceed 50 % of the total gross floor area of the Project.
- c. Neighborhood scale shall mean buildings with a maximum ~~height~~ of three (3) stories and a maximum height of forty (40) feet.
- d. Downtown scale shall mean a maximum ~~height~~ of five (5) stories and a maximum height of sixty (60) feet.
- e. The minimum allowable as-of-right density requirements for residential uses specified in Section 7.1 shall apply to the residential portion of any mixed-use development project.

## 7.46 HOUSING AND HOUSING AFFORDABILITY

### 7.461 Number of Affordable Housing Units.

For any Project with 5 or more units not less than twenty percent (20%) of housing units constructed shall be Affordable Housing. For Multifamily Housing limited to elderly residents, projects shall have at least thirty percent (30%) affordable housing units. For purposes of calculating the number of units of Affordable Housing required within a Project, any fractional unit ~~of 0.5 or greater~~ shall be deemed to constitute a whole unit.

### 7.462 Monitoring Agent.

~~For~~Where ~~p~~Projects are subsidized by a Subsidizing Agent and it is the practice of the Subsidizing Agent to monitor such Projects, the Monitoring Agent shall be the Subsidizing Agency. For all other ~~p~~Projects, the Monitoring Agent shall be the City of Easthampton. In any case where the Monitoring ~~ing~~ Agent cannot adequately carry out its administrative duties, upon certification of this fact by the PAA or by DHCD such duties shall be administered by a qualified housing entity designated by the PAA. The Monitoring Agent shall ensure the following standards are met by the Developer/Owner, prior to issuance of a Building

**Commented [RW(8)]:** Just want to note here that because of the counting rules for the Subsidized Housing Inventory (SHI), most communities opt to require 25% if the project is rental so they get credit for 100% of the units in the project. This is so much the case, that we have actually incorporated this into our template with the option for the PAA to waive for feasibility purposes. SHI may not be a concern in Easthampton but can recommend language here if that option/issue is of interest.

**Commented [RW(9)]:** This not a 40R requirement but strongly recommend as it is consistent with how affordability is calculated for the state's Subsidized Housing Inventory (SHI) and in at least one case resulted in a community getting only a quarter of the units counted for a project than they otherwise would have.

Permit for a Project within the SGZD. Standards shall be for the term of the Affordable Housing Restriction:

1. Prices of Affordable Homeownership Units are properly computed and rental amounts of Affordable Rental Units are properly computed, as set forth in the Affirmative Fair Housing Marketing and Resident Selection Plan (AFHMP);
2. Income eligibility of households applying for Affordable Housing is properly and reliably determined, as set forth in the Affirmative Fair Housing Marketing and Resident Selection Plan;
3. The Affirmative Fair Housing Marketing ~~Plan~~ and Resident Selection Plan shall conform to all state and federal requirements, have been approved by DHCD specifically with regard to conformance with the Governing Laws, and will be properly administered by the Developer/Owner or their Marketing/Lottery Agent;
4. Sales and rentals are made to Eligible Households chosen in accordance with the Affirmative Fair Housing Marketing and Resident Selection Plan; and
5. The Affordable Housing Restriction, meeting the requirements of this section and approved by DHCD specifically with regard to conformance with the Governing Laws, is recorded with the Hampshire County Registry of Deeds.

**Commented [RW(10)]:** Realize that the acronym here doesn't quite line up with the full title here; however, in practice this document is often alternatively referred to as by the shorter "Affirmative Fair Housing Marketing Plan"; hence the usual acronym.

**Commented [RW(11)]:** This edit and the next one are for consistency with the current SGZ template/40R guidelines. Required unless the SGZ otherwise makes clear that the AFHMP and AHR must be approved by DHCD pursuant to the Governing Laws (note: where the 40R affordability requirements are covered by another eligible state or federal housing subsidy program e.g., LIHTC, in practical terms, such "approval" will inform DHCD 40R staff acknowledgement)

#### 7.463 Submission Requirements.

As part of any application for Plan Approval for a Project within the SGZD submitted under Sections 7.49 through 7.413 the Applicant must submit the following documents to the PAA and the Monitoring Agent:

1. Evidence that the Project complies with the cost and eligibility requirements of Section 7.464 of this ordinance;
2. Project plans that demonstrate compliance with the requirements of 7.465 of this ordinance, and;
3. A form of Affordable Housing Restriction that satisfies the requirements of Section 7.466 of this ordinance.
4. Details on the number of units that are accessible to the mobility and sensory impaired.

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

1. Affordable Housing shall be rented or sold to and occupied only by Eligible Households. If approved by DHCD, during the initial Lottery/Lease Up only, preference will be given to Eligible Households that meet one or more Local Preference residents categories in accordance with DHCD's AFHMP guidelines, for no more than 70% of Affordable Units and only during the initial Lottery/Lease Up.
2. For an Affordable Rental Unit, the monthly rent payment, including applicable utilities allowances, 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.

**Commented [RW(12)]:** Would recommend just removing this sentence entirely as such preferences are already mentioned in the revised last sentence of 7.466.4 and these details are nevertheless covered by the broader requirement that approval of the project is subject to an AFHMP that complies with DHCD AFHMP guidelines and is approved by DHCD. That said, if you want to leave in, need to at least replace "local residents" with "Local Preference categories..." as Local Preference is not in fact limited to residents

**Commented [RW(13)]:** The 40R Program no longer requires that the cost of parking be included in the within the rent/sale limit, only that it be included in the rent /cost if that is the case for the market rate units. To the extent the PAA wishes to have any separate parking cost included in the rent limit, it is generally treated as another utility as part of the utility allowance.

3. 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 at the discretion of the PAA, parking, shall not exceed 30.5 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.

4. Prior to the granting of any 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 the City of Easthampton.

**7.465 Design and Construction.** Units of Affordable Housing shall be finished housing units. With respect to the minimum required number for such units in a given Project, unless otherwise dictated by an eligible state or federal housing subsidy program other than 40R, Units of Affordable Housing shall be equitably integrated and, at minimum, proportionately dispersed throughout the residential portion of the Project of which they are part, across all residential buildings, floors, distinct unit types, and with respect to the gross floor area devoted to residential units, in accordance with the AHR and AFHMP approved by DHCD. The Affordable Housing units and shall be comparable in initial construction quality, size, amenities, and exterior design to the other housing units in the Project. The total number of bedrooms in the Affordable Housing shall be at least proportionate to the total number of bedrooms in all units in the Project of which the Affordable Housing is part.

**7.466 Affordable Housing Restriction.** Each Project shall be subject to an Affordable Housing Restriction (such an AHR may be specific to the City and subject to formal DHCD approval under the 40R Program and/or the City reserves the right to participate in a shared AHR associated with eligible state or federal housing subsidies ~~other funders~~ through the Mass Docs Program) which is recorded with the Hampshire County Registry of Deeds or district registry of the Land Court and which contains the following:

1. Specification of the term of the affordable housing restriction as stipulated in the PAA Plan Approval decision but which nevertheless shall be no less than thirty years;
2. The name and address of the Monitoring Agent with a designation of its power to monitor and enforce the affordable housing restriction;
3. A description of the Affordable Homeownership Unit(s), if any, by address and number of bedrooms in a Project or portion of a Project which is homeownership; and a description of the overall quantity and number of bedrooms and number of bedroom types of the Affordable Rental Unit(s) in a Project or portion of a Project which is are rental. Such restriction shall apply individually to the specifically identified Affordable Homeownership Unit and shall apply to a percentage of rental units of a rental Project or the rental portion of a Project with the initially designated Affordable Rental Units identified in and able to float subject to specific approval by DHCD in accordance with, the corresponding Affirmative Fair Housing Marketing Plan (AFHMP) and DHCD's AFHMP guidelines ~~without specific unit identification.~~
4. Reference to the Affirmative Fair Housing Marketing and Resident Selection Plan, to which the Affordable Housing is subject, and which includes an affirmative fair housing marketing program, including public notice and a fair resident selection process. ~~If approved by DHCD, the housing marketing and selection plan may provide for local preferences in resident selection; the plan shall designate the household size appropriate for a unit with respect to bedroom size and provide that the preference for such Unit shall be given to a household of the appropriate size; Such plan shall be consistent with DHCD guidance, subject to approval~~

**Commented [RW(14):** In an effort to support smart growth / local TDM strategies, such as the unbundling / separation of housing and parking costs, DHCD 40R guidance and regulations have been modified in this regard to allow more flexibility in terms of how parking costs are handled, provided that, at a minimum, the affordable housing residents have at least the same rights/access to any parking provided in association with the Project.

**Commented [RW(15):** If I am reading this correctly, I believe our current 40R SGZ template/guidelines, and the regulations for that matter, require that the monthly cost not exceed 30% of the applicable income limit. I think where there are references to sometimes to 33% or 35% it may be in the context of a homeownership income threshold for individual households who might apply to a homeownership lottery. In other words, if the mortgage necessary for them to afford the restricted monthly cost is going to exceed 35% of their household income, they might not be in a position to qualify for the lottery or at least a unit they may have been offered via the lottery.

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by DHCD, and shall include a preference based on need for the number of bedrooms in a unit and a preference based on need for the accessibility features of a unit where applicable. Additional preferences in resident selection may only be provided to the extent such preferences are also consistent with applicable law and approved by DHCD.

5. 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 Affirmative Fair Housing Marketing and Resident Selection Plan
6. 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;
7. 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;
8. Provision for effective monitoring and enforcement of the terms and provisions of the affordable housing restriction by the Monitoring Agent;
9. Provision that the ~~restriction~~AHR 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;
10. Provision that the ~~restriction~~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;
11. Provision 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 Ordinance and containing such other information as may be reasonably requested in order to ensure affordability; and
12. A requirement that residents in Affordable Housing provide such information as the Monitoring Agent may reasonably request in order to ensure affordability.

**7.467 Costs of Housing Marketing and Selection Plan.** The Affirmative Fair Housing Marketing and Resident Selection Plan or any associated Monitoring Services Agreement may make provision for payment by the Project applicant of reasonable costs to the Monitoring Agent to fulfill the duties required under Section 7.462 ~~develop, advertise, and maintain the list of Eligible Households and to monitor and enforce compliance with affordability requirements.~~

**7.468 Age Restrictions.** Nothing in this Section 7.4 shall permit the imposition of restrictions on age upon ~~any~~ any Projects ~~throughout the entire SGZD unless voluntarily proposed by the Applicant.~~ However, the PAA may, in its review of a submission under Section 7.49, allow a specific Project within the SGZD designated exclusively for the elderly, persons with disabilities, or for assisted living, provided that any such Project shall be in compliance with all applicable fair housing laws and not less than thirty percent (30%) of the housing units in such a restricted Project shall be restricted as Affordable units. ~~Any Project which includes age restricted residential units shall comply with applicable federal, state and local fair housing laws and regulations.~~

**7.469 Phasing.** For any Project that is approved and developed in phases in accordance with Section 7.494, the ~~percentage~~proportion of Affordable Housing Units ~~(and the proportion of Existing Zoned Units to Bonus Units as defined in 760 CMR 59.04 1(h))~~ in each phase shall be ~~consistent across all phases at least equal to the minimum percentage of Affordable Housing required under Section 7.461.~~ Where the percentage of Affordable Housing is not uniform across all phases, the unit dispersal and bedroom

**Commented [RW(16):** Simplifies and eliminates any discrepancy/confusion with the earlier outlined duties. Some of the work in the existing description here is often performed by a lottery/marketing agent who may or may not be approved to also serve as the Monitoring Agent.

**Commented [RW(17):** This change reflects subsequent changes in 40R guidelines and regulations clarifying that age-restricted projects cannot be required in any portion of a 40R District, not just across the District, and age-restrictions may only be imposed where voluntarily proposed by the Applicant. And just to note, recent statutory changes give DHCD the ability to limit the % of age-restricted units within 40R Districts that can qualify as Bonus Units

**Commented [RW(18):** Just a suggestion but seems redundant

**Commented [RW(19):** In certain circumstances, this earlier language has unintentionally caused problems / affordability obligations that can greatly exceed what is required

proportionality requirements under Section 7.465 shall be applied proportionately to the Affordable Housing provided for in each respective phase.

**7.4610 No Waiver.** Notwithstanding anything to the contrary herein, the Affordability provisions in this Section 7.46 shall not be waived without the express written approval of DHCD, as may be permitted, pursuant to the Governing Laws.

**7.47 DIMENSIONAL AND DENSITY REQUIREMENTS**

This ordinance shall promote both small and large infill development projects within the designated Smart Growth Sub Districts throughout the City of Easthampton. Infill development of single lots considered non-conforming under MGL Chapter 40A, Section 6 is permitted within the SGZD, provided that the housing unit will be deemed as Affordable Housing, as defined in Section 7.42 of this ordinance.

**Commented [RW(20)]:** Recommend this modification based on some issues that have come up in the past but may or may not be significant to this particular District/40R ordinance.

**7.471 Tables of Height and Bulk Requirements.**

Notwithstanding anything to the contrary in this Zoning Ordinance, the dimensional requirements applicable in the SGZD are as follows:

**Table 7-1. Height and Density Requirements in the Downtown Mixed Use Sub-District**

Use	Maximum Height (feet)	Maximum Height (stories)	Required Minimum Residential Density (du/ac.)
Dwelling Units, Multi-Family	60	5	20
Assisted Living	45	3.5	20
Mill Renovation for Mixed Use	No limit	--	20
Mixed Use Development, Downtown and Neighborhood Scale	60	5	20

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**Table 7-2. Height and Density Requirements in the Traditional Neighborhood Village Sub-District**

Use	Maximum Height (feet)	Maximum Height (stories)	Required Minimum Residential Density (du/ac.)
Dwelling Units, Single Family Detached	35	2.5	8
Townhouses	35	2.5	8
Dwelling Units, Duplex	35	2.5	12
Dwelling Units, Three-Family Detached	35	2.5	12
Assisted Living	35	2.5	20
Mixed Use Development, Neighborhood Scale	40	3	20

**Table 7-3. Height and Density Requirements in the Highway Corridor Mixed Use Sub-District**

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Use	Maximum Height (feet)*	Maximum Height* (stories)	Required Minimum Residential Density (du/ac.)
Townhouses	45	3.5	8
Dwelling Units, Duplex	45	3.5	12
Dwelling Units, Three-Family Detached	45	3.5	12
Dwelling Units, Multi-Family Detached	60	5	20
Assisted Living	45	3.5	20
Mixed Use Development, Downtown Scale	60	5	20

\* The Planning Board may allow up to 4 stories if the applicant can demonstrate that the location and design of buildings greater than 3.5 stories in the HB District will not negatively impact the viewshed as listed in the City's Smart Growth Design Standards No buildings, parking or access ways shall be allowed closer than 25 feet from a property line when the project/property is abutting a residential Zoning District.

**7.472 Tables of Area Requirements.**

All projects within the SGZD must provide a twenty-five (25) foot buffer to adjacent residential uses not within the SGZD. Subject to the preceding sentence but otherwise notwithstanding anything to the contrary in this Zoning Ordinance, the area requirements applicable in the SGZD are as follows:

**Commented [RW(21):** Is "buffer" in the preceding sentence essentially a setback? Regardless, may want to clarify any distinction. Also may want to clarify if these area requirements are minimums or absolute requirements (ie both the minimum and maximum setbacks, which of course can nevertheless be waived by the PAA provided consistent with 7.4113)

**Table 7-3. Area Requirements in the Downtown Mixed Use Sub-District**

Use	Front setback (ft)	Side setback (ft)	Rear setback (ft)
Dwelling Units, Multi-Family Detached	10	10	20
Assisted Living	10	10	20
Mill Renovation for Mixed Use	10	10	20
Mixed Use Development, Downtown and Neighborhood Scale	0	5	20

**Table 7-4. Area Requirements in the Traditional Neighborhood Village Sub-District**

Use	Front setback (ft)	Side setback (ft)	Rear setback (ft)
Dwelling Units, Single Family Detached	20	5	20
Townhouses	20	0	20
Dwelling Units, Duplex	20	5	20
Dwelling Units, Three-Family Detached	20	10	20
Assisted Living	20	10	20
Dwelling Units, Patio House	20	10	20
Mixed Use Development, Neighborhood Scale	20	10	30

**Table 7-5 Area Requirements in the Highway Corridor Mixed Use Sub-District\***

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Use	Front setback (ft)	Side setback (ft)	Rear setback (ft)
Townhouses	20	10	30
Dwelling Units, Duplex	20	10	30
Dwelling Units, Three-Family Detached	20	10	30
Assisted Living	20	10	30
Mixed Use Development, Neighborhood Scale	20	10	30

\* - Where the HB District abuts a residential district, all of the provisions of Section 6.5 (Screening and Buffers) shall apply.

**Commented [RW(22):** Technically we need to review and have a copy of this on file. May need to also tweak reference to a specific version/date unless otherwise approved by DHCD



**7.480 PARKING REQUIREMENTS**

The parking requirements applicable for Projects within the SGZD are as follows.

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

**Table 8-1: Off-Street Parking Regulations**

Uses	Number of Parking Spaces Per Unit
<b>Residential</b>	
One-family dwelling	Two (2) per dwelling unit
Accessory apartment	Two (2) per dwelling unit, except the one-bedroom accessory apartment requires only one (1) space
Duplex; conversion of existing one-family dwelling to two-family	Two (2) per dwelling unit
Conversion of existing one-family dwelling to three- and four-family dwelling; multifamily housing for elderly and/or <u>handicapped</u> persons <u>with disabilities</u> .	One and one-half (1½) for each dwelling unit
Multifamily housing	One (1) for each dwelling unit in the development
Bed and Breakfast	Two (2) plus one (1) additional space for each rooming unit
Home Occupation	In addition to meeting the parking standards for the dwelling unit, one (1) space plus one (1) space for each non-resident employee

Uses	Number of Parking Spaces Per Unit
<b>Community Facilities</b>	
Childcare facility; family day care home	One per two (2) employees plus one off-street passenger loading place for every eight (8) students
City building, recreational facility	One per each <del>(1,000)</del> square feet of gross floor area
Nursing, rest or convalescent home	One per three (3) beds at design capacity
Public Utility	One for each four hundred (400) square feet of gross floor area devoted to office use One for each eight hundred (800) square feet of gross floor area per other use

**Commented [RW(23)]:** DHCD does not have any absolute limits on the maximum number of parking spaces that can be allowed, so the maximum numbers could be distinct / possibly higher; however, for absent any associated proposed maximum limits have amended language to indicate that the stipulated number of spaces are both the minimum required and maximum permitted (absent a waiver by the PAA and confirmation that the statute's minimum housing density allowances can still be achieved). Recognizing different development contexts and local concerns, current 40R guidelines continue to allow but do not require parking minimums.

**Commented [RW(24)]:** Non-substantive but just an observation that parenthesis don't seem to fit here unless following "thousand" or perhaps "one thousand" which would be alternative edits

Uses	Number of Parking Spaces Per Unit
<b><u>Retail and Service</u></b>	
Convenience market; pharmacy, drugstore	One for each 1,000 square feet of gross floor area
Supermarket	Six (6) for each 1,000 square feet of gross floor area
Restaurants, bars	One for each four (4) seats of total seating capacity, plus one for each two employees on shift of greatest employment
Discount club, warehouse club, warehouse supermarket	Five (5) for each 1,000 square feet gross floor area
Other retail uses including, but not limited to: discount store; hardware/paint shop; garden center; factory outlet store; antique or gift shop	One per each <del>(1,000)</del> square feet of gross floor area
Beauty or barber shop, hair salon or similar establishment	Two (2) for each operator chair
Personal and consumer establishments, including, but not limited to: laundry or dry cleaning; tailor; milliner; cobbler; photographer's studio; repair shop for household appliance or business equipment; photocopy shop	One per each <del>(1,000)</del> square feet of gross floor area
Medical/dental center, clinic or laboratory	Five (5) for each practitioner or one for each <del>(1,000)</del> square feet of gross floor area, whichever is greater
Other professional and business offices and services	One for each <del>(1,000)</del> square feet of gross floor area
<b><u>Industrial</u></b>	
Manufacturing or industrial establishment	One for each six hundred (600) square feet of gross floor area OR 0.75 for each employee of the combined employment of the two (2) largest successive shifts, whichever is larger

Offsite parking will be allowed within 300' of the Project. The PAA may allow for a decrease in the required parking as provided in Sections 7.482 and 7.483 below.

**7.482 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 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).

**7.483 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 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:

- a) 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;
- b) the availability of public or commercial parking facilities in the vicinity of the use being served;
- c) shared use of off street parking spaces serving other uses having peak user demands at different times;
- d) age or other occupancy restrictions which are likely to result in a lower level of auto usage;
- e) 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
- f) such other factors as may be considered by the PAA.

**7.484 Location of Parking.**

Any surface parking lot shall, to the maximum extent feasible, be located at the rear or where not feasible or otherwise preferred by the PAA, side of a building, relative to any principal street, public open space, or pedestrian way.

**Commented [RW(25)]:** This is just a suggestion which may or may not apply to the local conditions

**7.49 PLAN APPROVAL OF PROJECTS: GENERAL PROVISIONS**

**7.491 Plan Approval.** An Application for Plan Approval shall be reviewed by the PAA for consistency with the purpose and intent of Sections 7.49 through 7.413. 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 Governing Laws. The following categories of Projects shall be subject to the Plan Approval process:

- a) Any Project requiring Plan Approval in Section 7.451 SGZD Table of Use and any Project seeking a waiver.

**7.492 Plan Approval Authority (PAA).** The Easthampton 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 SGZD.

**7.493 PAA Regulations.** The Plan Approval Authority may adopt administrative rules and regulations relative to Plan Approval. Such rules and regulations and any subsequent amendments thereto must be approved by the Department of Housing and Community Development.

**7.494 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 7.469.

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## 7.410 PLAN APPROVAL PROCEDURES

**7.4101 Pre-application.** 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:

1. Overall building envelope areas;
2. Open space and natural resource areas; and
3. 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 SGZD.

**7.4102 Required Submittals.** An application for Plan Approval shall be submitted to the PAA on the form provided by the PAA, along with an application fee of \$25 per residential unit, 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 7.46, the application shall be accompanied by all materials required under Section 7.463. 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.

**7.4103 Application Content.** All of the following requirements shall be included on the Site Plan:

1. Name of the project, locus, boundaries and locus maps showing the site's location, data, north arrow, and scale of the plan. All revisions occurring after original submission shall be noted and dated.
2. Name and address of the owner of record, developer, and original seal of the engineer, surveyor, architect, or landscape architect, as applicable.
3. Names and addresses of all owners of record abutting parcels and those within three hundred (300) feet of the property line.
4. All existing lot lines, easements, and rights-of-way. Included area in acres or square feet; abutting land uses, and the location and use of structures within three hundred (300) feet of the site.
5. The location and use of all existing and proposed buildings and structures within the development. Include all dimensions of height and floor area, and show all exterior entrances, and all anticipated future additions and alterations. Structures to be removed shall be indicated by dashed lines.
6. The locations of all present and proposed public and private ways, parking areas, driveways, sidewalks, ramps, curbs, fences, paths, landscaping walls, and fences. Location, type, and screening details for all waste disposal containers shall also be shown
7. The locations, height, intensity and bulb type of all external lighting fixtures. The direction of illumination and methods to eliminate glare onto adjoining properties must also be shown.
8. The location, height, size, materials, and design of all proposed signage.

9. The location and description of all present and proposed utility systems including sewage or septic system; water supply system; telephone, cable television, and electrical systems; and storm drainage system including existing and proposed drain lines, culverts, catch basins, headwalls, end walls, manholes, and drainage swales.

The PAA will require soil logs, percolation tests, and storm run-off calculations for large or environmentally sensitive developments.

10. Plans to prevent pollution of surface or groundwater; erosion of soil both during and after construction; excessive run-off; excessive raising or lowering of the water table; and flooding of other properties, as applicable.
11. Existing topography, indicated by dashed lines of two-foot contour intervals where slopes are greater than three (3) percent but less than fifteen (15) percent, and at five-foot contour intervals where slopes are fifteen (15) percent or more. All elevations shall be referred to the nearest U.S. Coastal and Geodetic datum. Where any changes in topography are proposed, finished contours shall be shown as solid lines.

If any portion of the site is within the one hundred-year flood elevation of any water body, the area will be shown and base flood elevations given.

Indicate all areas within the site and within fifty (50) feet of the site, where ground removal or filling is proposed, and given its approximate volume in cubic yards.

12. A landscape plan showing all existing natural land features, major trees, forest cover, and water sources and all proposed changes to these features including size and type of plan material. Water sources will include ponds, lakes, brooks, streams, wetlands, floodplains and drainage retention areas. General soil types shall be indicated as part of the landscape plan.
13. Zoning district boundaries within five hundred (500) feet of the site's perimeter shall be drawn and identified on the plan. Such features may be shown as a key map on the detail plan itself.
14. Traffic flow patterns within the site, entrances and exits, loading and unloading areas, size and location of curb cuts on the site and within one hundred (100) feet of the site. Include the possible organization of traffic channels, acceleration and deceleration lanes, additional width or other means necessary to prevent difficult traffic situations.

**7.4104 Additional Material.** All of the following requirements shall be included on the Site Plan:

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1. Traffic Impact Statement. A detailed Traffic Impact Statement is required in each case where a proposed new building, use or project will contain more than 10,000 square feet, or will include one of the following uses which generates high volumes of trips: convenience stores; drive-in restaurant; automotive service station; or bank. The Traffic Impact Statement shall contain:
  - (1) The projected number of motor vehicle trips to enter or leave the site, estimated for daily and peak hour traffic levels;
  - (2) The projected traffic flow pattern including vehicular movements at all major intersections likely to be affected by the proposed use of the site and entrances and egresses, loading and unloading areas, and curb cuts on site and within one hundred (100) feet of the site.

- (3) A detailed assessment of the traffic safety impacts of the proposed project or use on the carrying capacity of any adjacent highway or road, including the projected number of motor vehicle trips to enter or depart from the site estimated for daily hour and peak hour traffic levels, road capacities, and impacts on intersections.
  - (4) A plan to minimize traffic and safety impacts through such means as physical design and layout concepts, staggered employee work schedules, promoting use of public transit or carpooling, or other appropriate means.
  - (5) An interior traffic and pedestrian circulation plan designed to minimize conflicts and safety problems.
2. Elevation plans of a scale of one-quarter (1/4) inch equals one foot for all exterior facades indicating pertinent design features and type of materials to be used.
3. Deeds, easements, agreements, and other legal documents. Drafts of deeds, easements, agreements, and other legal documents, including the following where applicable:
- (1) Deeds of land to be conveyed to the city for streets or other public purposes;
  - (2) Deeds of easements and right-of-way;
  - (3) Covenants and any other agreements affecting the use of the site;
  - (4) Articles of incorporation of a landowner's association and the by-laws of the association; and,
  - (5) Agreements between the applicant and the City regarding public improvements or other matters.

**7.4105 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 City Clerk and a copy of the application including the date of filing certified by the City Clerk shall be filed forthwith with the PAA.

**7.4106 Circulation to Other Boards.** Upon receipt of the Application, the PAA shall immediately provide a copy of the application materials to the City Council, Board of Health, Conservation Commission, Fire Department, Police Department, Building Inspector, Department of Public Works, the Monitoring Agent and other municipal officers, agencies or boards designated by the PAA 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.

**7.4107 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 City Clerk, within 120 days of the receipt of the application by the City 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 City 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.

**7.4108 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 City 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.

#### 7.411 PLAN APPROVAL DECISIONS

**7.4111 Plan Approval.** Plan Approval shall be granted where the PAA finds that:

1. the applicant has submitted the required fees and information as set forth in the PAA Regulations; and
2. the Project as described in the application meets all of the requirements and standards set forth in this Section 7.4 and the PAA Regulations, or a waiver has been granted therefrom; and
3. 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 7.46, 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 7.4, or to mitigate any extraordinary adverse potential impacts of the Project on nearby properties.

**7.4112 Plan Disapproval.** A Plan Approval application may be disapproved only where the PAA finds that:

1. the applicant has not submitted the required fees and information as set forth in the Regulations; or
2. the Project as described in the application does not meet all of the requirements and standards set forth in this Section 7.4 and the PAA Regulations, or that a requested waiver there from has not been granted; or
3. it is not possible to adequately mitigate ~~significant~~ **extraordinary** adverse project impacts on nearby properties by means of suitable conditions.

**Commented [RW(26)]:** This reflects a recent change in the 40R statute

**7.4113 Waivers.** ~~Subject to to the limitations of Section 7.4610 and any conditions of DHCD's approval of the SGZD.~~ Upon the request of the Applicant, the Plan Approval Authority may waive dimensional and other requirements of Section 7.4, 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 SGZD, 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 7.4.

**7.4114 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 to mitigate any extraordinary adverse Project impacts on nearby properties. ~~For Projects that are approved and developed in phases, the proportionpercentage of Affordable to market rate units shall be consistent across all phases, and the proportion of Existing Zoned Units to Bonus Units (as those terms are defined under 760 CMR 59.00) shall be consistent across all phases at least equal to the minimum percentage of Affordable Housing required under Section 7.461. Where the percentage of Affordable Housing is not uniform across all phases, the unit dispersal and bedroom~~



proportionality requirements under Section 7.465 shall be applied proportionately to the Affordable Housing provided for in each respective phase.

**Commented [RW(27)]:** Except for the first sentence, this section seems to reiterate Section 7.469 which I am just noticing is appears earlier in the document despite the fact that it seems like 7.469 might come after Section 7.4114 unless read like 7.4.6.9 and 7.4.11.4? In any event, per the earlier comment in conjunction with the edits to 7.469, this language has been modified in the corresponding SGZ guidelines. Given that it largely reiterates 7.469, fine too to eliminate redundant portion or consolidate though that would mess up sections

**7.4115 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 City 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 City Clerk without an appeal having been filed or if such appeal, having been filed, is dismissed or denied, the City 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 City 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.

**7.4116 Validity of Decision.** A Plan Approval shall remain valid and shall run with the land indefinitely, provided that construction has commenced within two years after the decision is issued, which time shall be extended by the time required to adjudicate any appeal from such approval and which time shall also be extended if the Project proponent is actively pursuing other required permits for the Project or there is other good cause for the failure to commence construction, or as may be provided in a Plan Approval for a multi-phase Project.

## 7.412 CHANGE IN PLANS AFTER APPROVAL BY PAA

**7.4121 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 City Clerk.

**7.4122 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 7.49 - through 7.413.

## 7.413 DESIGN STANDARDS

### 7.4131 Adoption and Amendment of Design Standards.

The Plan Approval Authority may adopt and amend, by simple majority vote, Design Standards which shall be applicable to all 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, require Design Standards to contain graphics illustrating a particular standard or definition in order to make such standard or definition clear and understandable.

**7.4132 DHCD Approval**

Before adopting or amending 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 City Clerk.

**7.4133 Plan Approval**

An application for Plan Approval that has been submitted to the City Clerk pursuant to this Section shall not be subject to Design Standards that have not been approved by DHCD and filed with the City Clerk.

**7.414 SEVERABILITY**

If any provision of this Section 7.4 is found to be invalid by a court of competent jurisdiction, the remainder of Section 7.4 shall not be affected but shall remain in full force. The invalidity of any provision of this Section 7.4 shall not affect the validity of the remainder of the City's Zoning Ordinance.

## 8.6 PLANNED UNIT RESIDENTIAL DEVELOPMENT FOR AFFORDABLE HOUSING

### 8.61 Uses Allowed By ~~Special Permit~~Plan Approval

Planned Unit Residential Developments shall be permitted in the R-5, R-10, R-15, DB, HB, and MI Districts only upon issuance of a Plan Approval from the Planning Board as specified in Section XII of this ordinance.

Commented [RW(28)]: As defined

### 8.62 General Description

A "Planned Unit Residential Development" shall mean a development containing a mixture of residential uses and building types, including single family dwellings, townhouses, two-family dwellings or multifamily dwellings, and open space. A planned unit residential development may be allowed by ~~special permit~~Plan Approval to exceed the normal density requirements for the district to the extent authorized by this ordinance provided that standards for the permanent protection of open space, the provision of affordable housing, and other standards specified herein are met.

### 8.63 Purposes

The purposes of this Planned Unit Residential Development ordinance are to:

- a. allow for greater variety and flexibility in the development of housing types;
- b. To support private developers in their efforts to develop affordable housing;
- c. promote the permanent preservation of open space;
- d. facilitate the construction and maintenance of streets, utilities and public services in a more economical and efficient manner;
- e. maintain and replicate the traditional New England rural character and land use pattern in which small villages are adjacent to common open space.

### 8.64 Uses Allowed by ~~Special Permit~~Plan Approval

- a. Single family dwellings;
- b. Two-family dwellings;
- c. Townhouses - single family dwellings connected by one or more common walls;
- d. Multifamily dwellings;
- e. Recreational uses and open space.

### 8.65 Density and Dimensional Regulations

If the proposed project complies with the affordable housing requirements specified in Section 8.69, the following density and dimensional requirements may be substituted for those requirements normally required in the district:

- a. The minimum lot size for all dwelling units may be reduced by ten (10) percent below the lot size required in Table 6-1.
- b. The minimum total land area for a Planned Unit Residential Development shall be ten (10) acres.
- c. There shall be no frontage requirements within the Planned Unit Residential Development.
- d. Minimum setback, rear and side yard requirements specified in the Table of Dimensional Requirements shall pertain only to the periphery of the Planned Unit Residential Development.
- e. The maximum number of dwelling units per structure shall be eighteen (18) with the condition in the R-15 and R-35 districts that the minimum yard setbacks be increased to

fifty (50) feet if a structure contains over six units (Amended by the City Council on 07-01-2003; approved by the Mayor on 07-02-2003).

**8.66 Utility, Parking, and Circulation Requirements**

- a. All structures which require plumbing shall be connected to a public sanitary sewer and public water system.
- b. A minimum of two parking spaces per dwelling unit shall be required, which may include garages.
- c. There shall be an adequate, safe, and convenient arrangement of pedestrian circulation, facilities, roadways, driveways, and parking.

**8.67 Landscaping and Buffer Area Requirements**

- a. A coordinated landscape design for the entire project area, including landscaping of structures, parking areas, driveways and walkways, shall be submitted for approval by the Planning Board, and shall be subsequent to such approval, implemented.
- b. Whenever possible, existing trees and vegetative cover shall be conserved and integrated into the landscape design.
- c. All residential structures and accessory uses within the development shall be set back from the boundaries of the development by a buffer strip of at least fifty (50) feet in width which shall include trees and shall be kept in a natural or landscaped condition.

**8.68 Common Open Space Requirements**

- a. All land not devoted to dwellings, accessory uses, roads, or other development shall be set aside as common land for recreation, conservation, or agricultural uses which preserve the land in essentially its natural condition.
- b. Further subdivision of common open land or its use for other than recreation, conservation, or agricultural, except for easements for underground utilities, shall be prohibited. Structures or buildings accessory to recreation, conservation, or agricultural uses may be erected but shall not exceed five (5) percent coverage of such common open land.

**8.69 Affordable Housing Requirements**

- 8.691 Whenever an application is made under this section for a Plan Approval from the Planning Board for a Planned Unit Residential Development, the Planning Board shall require as a condition of the grant of a Plan Approval the provision within the development of affordable housing units amounting to fifteen (15) percent of the development's total number of dwelling units for incomes at 80% of the AMI. For projects that provide units for those with incomes at or below 50% of the AMI, only ten (10) percent of the units must be affordable.
- 8.692 The affordable housing units to be provided shall be compatible with the equivalent in exterior architectural design to other units within the development.
- 8.693 The distribution of unit sizes (i.e., number of bedrooms) and determination of occupancy characteristics (i.e., elderly or family) shall be made by the Planning Board at the time of granting the ~~Special Permit~~ Plan Approval.

**Commented [RW(29)]:** Are any projects/units that are subject to this language potential 40R units? If so, need to add note that these determinations are further subject to DHCD approval as part of DHCD's review and approval of the AHR and AFHMP.

8.694 Target Population for Affordable Housing Units

- a. Affordable housing units are those which may be purchased by families with incomes less than eighty (80) percent of the median income for the Springfield-Chicopee-Holyoke Standard Metropolitan Statistical Area, the whole expenditure for housing costs does not exceed thirty (30) percent of the gross annual income of the owner. Housing costs for affordable housing units shall be calculated based upon current available mortgage interest rates, a thirty-year (30) mortgage term, and a ten (10) percent down payment. Adjustments must be made according to the number of persons in the household. The maximum sale price for the affordable housing units shall be based upon these housing cost calculations.
- b. The median income for the SMSA shall be established by the U.S. Department of Housing and Urban Development median gross family income data, as annually updated.
- c. The selection of qualified buyers for the affordable units shall be administered by the Easthampton Housing Authority. The selection from a pool of prospective buyers meeting the established income guidelines shall be based upon the following criteria:
  - (1) Priority consideration shall be given to households not currently owning a home
  - (2) Priority consideration

8.695 Preservation of Affordability

- a. In order to ensure equity and continued affordability, affordable housing units within the PURD shall be subject to resale controls administered by the Easthampton Housing Authority. Affordable housing units shall be subject to a deed restriction which shall establish the procedure for determining the maximum resale price of the unit as follows:
  - (1) At the time of initial sale of the affordable unit, the Housing Authority shall arrange for a real estate appraisal to be made, the costs to be borne by the seller, to determine the market value of the unit. The sale price divided by the market value of the unit shall equal the discount rate. The discount rate shall be recorded on the deed and mortgage documents.
  - (2) When the unit is resold, a real estate appraisal shall again be conducted to determine the market value of the unit. The market value shall be multiplied by the discount rate established on the deed to determine the maximum resale price.
  - (3) The deed shall contain the following language: "No deed shall be valid to convey good title, unless it is accompanied by the certificate of the Housing Authority, which after having made at least one appraisal thereof, certifies the full market value of the property, and further state the maximum consideration to be permitted on the deed."

- b. At the time of resale of an affordable housing unit, the Easthampton Housing Authority shall notify qualifying households on their waiting list of the availability of the unit, immediately after determining the resale price.
- c. Those families so notified shall have exclusive right to contract for the unit, for a period of sixty (60) days.
- d. If no contract has been entered into with any party at the end of sixty days, the owner of the unit may offer the unit to the general public at the price determined by the deed restriction.