

## ARTICLE XXXI. LITTLETON SMART GROWTH OVERLAY DISTRICTS

### A. General Regulations that apply to all Smart Growth Overlay Districts

#### A.1. PURPOSES

The purposes of this Article are:

- (1) To provide for the establishment of Smart Growth Overlay Districts, to encourage smart growth in accordance with the purposes of G. L. Chapter 40R,
- (2) To promote the goals and policies of the Littleton Master Plan;
- (3) To encourage residential and mixed-use development in close proximity to public transportation facilities and services in order to reduce auto dependence and increase access to regional employment centers;
- (4) To increase housing choices in Littleton, including affordable housing and a variety of housing types;
- (5) To facilitate development to provide goods and services within villages and neighborhoods.

#### A.2. DEFINITIONS

For purposes of Article XXXI, the following definitions shall apply. All capitalized terms shall be defined in accordance with the definitions established under the Governing Laws or Section A.2.0, or as set forth in the PAA Regulations. With respect to their application to this Article, to the extent that there is any conflict between the definitions or terms set forth in, or otherwise regulated by, the Governing Laws and those defined or used in this Article, inclusive of any applicable Design Standards, PAA Regulations, or any other applicable associated local zoning requirement, the terms of the Governing Laws shall govern.

**AFFORDABLE HOME OWNERSHIP 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** - a deed restriction of Affordable Housing meeting the statutory requirements in G.L. Chapter 184, Section 31 and the requirements of Section A.5.5 of this Bylaw.

**AFFORDABLE RENTAL UNIT** - an Affordable Housing unit required to be rented to an Eligible Household.

**APPLICANT** – the individual or entity that submits a Project application for Plan Approval.

**APPLICATION** – A petition for Plan Approval filed with the Approving Authority by an Applicant and inclusive of all required documentation as specified in administrative rules adopted pursuant to A8.3, Plan Approval Process.

**AS-OF-RIGHT** - a use allowed under this Article 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 this Article shall be considered an as-of-right Project, subject to review and approval by DHCD of any Municipal 40R regulations, guidelines, application forms, or other requirements applicable to review of Projects by the Plan Approval Authority under the 40R Zoning and 760 CMR 59.00..

**DEPARTMENT** or DHCD - the Massachusetts Department of Housing and Community Development, or any successor agency.

**DESIGN STANDARDS** – provisions of Section A.12 made applicable to Projects within a SGOD that are subject to the Plan Approval process.

**DEVELOPABLE LAND** - All land within the District that can be feasibly developed into Development Projects. Developable Land shall not include: the rights-of-way of existing public streets and ways; or areas that are: (1) protected wetland resources (including buffer zones) under federal, state, or local laws; (2) land unsuitable for development because of topographic features or for environmental reasons; or (3) rare species habitat designated under federal or state law. The foregoing definition shall be for purposes of calculating density under this Section XXXI and shall not limit development activities in such excluded areas if otherwise allowed by applicable law.

**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.

**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 A.4.2, and subject to all applicable provisions of this Article.

**MONITORING AGENT** or **ADMINISTERING AGENT** – the qualified housing entity designated by the PAA, or other designated municipal official, pursuant to Section A.5.2, to review and implement the Affordability requirements affecting Projects under Section A.5.0 and to monitor and enforce the Affordable Housing Restriction(s).

**PAA REGULATIONS** – the rules and regulations of the PAA adopted pursuant to Section A.8.3.

PLAN APPROVAL - standards and procedures which Projects in the SGOD must meet pursuant to Sections A.8.0 through A.12.0 and the Governing Laws.

PLAN APPROVAL AUTHORITY (PAA) - The local approval authority authorized under Section A.8.2 to conduct the Plan Approval process for purposes of reviewing Project applications and issuing Plan Approval decisions within the SGOD.

PROJECT or DEVELOPMENT PROJECT - a Residential Project or Mixed-use Development Project undertaken within the SGOD in accordance with the requirements of this Article. The Project shall be identified on a Plan which is submitted to the Approving Authority.

RESIDENTIAL PROJECT - a Project that consists solely of residential, parking, and accessory uses, as further defined in Section A.4.1.

SGOD – A Smart Growth Overlay District established in accordance with this Article.

ZONING BYLAW or BYLAW - the Zoning Bylaw of the Town of Littleton.

### **A.3. APPLICABILITY OF SGODs – SCOPE AND AUTHORITY**

A.3.1 Applicability of SGODs. An applicant may seek development of a Project located within the SGOD in accordance with the provisions of the Governing Laws and this Article, including a request for Plan Approval by the PAA, if necessary. In such case, notwithstanding anything to the contrary in the Zoning Bylaw, such application shall not be subject to any other provisions of the Zoning Bylaw, 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. To the extent that there is any conflict between the Governing Laws and this Article, inclusive of the Design Standards, the PAA Regulations, and any otherwise applicable associated local zoning requirement, the Governing Laws shall govern.

A.3.2 Underlying Zoning. The SGOD districts established under this Article XXXI are overlay districts 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 Article. Within the boundaries of an 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). The boundaries of the SGOD districts are delineated on the Town of Littleton Zoning Map in accordance with § 173-22.

A.3.3 SGOD Districts Established. The following are districts established under this Article:

A. Littleton Station Smart Growth Overlay District, set forth in Article XXXII

**A.3.4 Administration.** The provisions of this Article 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 A.8 through A.12 shall be governed by the applicable provisions of G. L. Chapter 40R. Any other request for enforcement or appeal arising under this Article shall be governed by the applicable provisions of G. L. Chapter 40A.

#### **A.4. PERMITTED USES**

As-of-Right for Projects within SGODs include Residential Projects with Single-family, 2 and 3 family and/or Multi-family Residential Use(s); Mixed Use Development Projects with a combination of Residential and Commercial Uses; and parking accessory to any of the permitted uses, including surface, Garage-under, and structured parking; and Accessory uses customarily incidental to any of the above permitted uses.

Article XXXII provides detail on the Uses allowed in each sub district within the Littleton Station Village SGOD and the minimum portion of a mixed-use development project that must be devoted to a residential use, and types and of commercial uses allowed.

#### **A.5. HOUSING AND HOUSING AFFORDABILITY**

All Development Projects within a Smart Growth Overlay District shall comply with applicable federal, state and local fair housing laws.

**A.5.1 Number of Affordable Units.** A minimum of twenty-five percent (25%) of all Dwelling Units constructed in a Development Project shall be maintained as Affordable Units. Fractions shall be rounded up to the next whole number.

General Requirements. Affordable Units shall comply with the following requirements:

- (1) The monthly rent payment for an Affordable Rental Unit, 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 DHCD shall apply;
- (2) 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 thirty percent (30%) 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; and
- (3) Affordable Units required to be offered for rent or sale shall be rented or sold to and occupied only by Eligible Households.

**A.5.2 Monitoring Agent.** A Monitoring Agent which is a qualified housing entity, shall be designated by the PAA 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:

- (1) Prices of Affordable Homeownership Units are properly computed; rental amounts of Affordable Rental Units are properly computed;
- (2) Income eligibility of households applying for Affordable Housing is properly and reliably determined;
- (3) 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;
- (4) 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
- (5) 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 Middlesex South Registry of Deeds or the Land Court.

**A.5.3 Submission Requirements.** As part of any application for Plan Approval for a Project within the SGOD submitted under Sections A.8.0 through A.12.0 (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:

- 1) Evidence that the Project complies with the cost and eligibility requirements of Section A.5.4;
- 2) Development Project plans that demonstrate compliance with the design and construction standards of this Article for the District in which the Development Project is located, requirements of Section A.5.5; and
- 3) A form of Affordable Housing Restriction that satisfies the requirements of Section A.5.6.

These documents in combination, to be submitted with an application for Plan Approval, 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.

**A.5.4 Cost and Eligibility Requirements.** Affordable Housing shall comply with the following requirements:

1. Affordable Housing required to be offered for rent or sale shall be rented or sold to and occupied only by Eligible Households.
2. For an Affordable Rental Unit, the monthly rent payment, including applicable utility allowances, 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 another affordable housing program methodology for calculating rent limits as approved by DHCD applies.
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, and insurance, 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 another affordable housing program methodology for calculating rent limits as approved by DHCD applies.

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 Littleton.

A.5.5 Design and Construction.

(1) Design. Units of Affordable Housing shall be finished housing units. With respect to the minimum required number for a given Project, units of Affordable Housing shall be equitably integrated and proportionately dispersed throughout the residential portion of the Project of which they are part, across all residential buildings, floors and distinct unit types in accordance with the affordable housing restriction and marketing and tenant selection plan approved by DHCD and 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.

(2) Timing. All Affordable Units must be constructed and occupied not later than concurrently with construction and occupancy of Unrestricted Units, and for Development Projects that are constructed in phases, Affordable Units must be constructed and occupied during the initial lease-up period, insofar as is practicable, in a proportion to the number of Dwelling Units in each residential phase of the Development Project.

(3) Unit Mix. The total number of bedrooms in the Affordable Units shall, insofar as practicable, be in the same proportion to the total number of bedrooms in the Unrestricted Units.

A.5.6 Affordable Housing Restriction. All Affordable Units in any Project shall be subject to an Affordable Housing Restriction which is recorded with the Middlesex South 4/16/2021

Registry of Deeds or the Land Court and which contains the following:

1. Description of the Development Project, including whether the Affordable Unit will be rented or owner-occupied;
2. Specification of the term of the Affordable Housing Restriction which shall be in perpetuity or the longest period allowed by law, but shall be no less than thirty years;
3. The name and address of the Monitoring Agent with a designation of its power to monitor and enforce the Affordable Housing Restriction;
4. A description of the Affordable Homeownership Unit, if any, by address and number of bedrooms; and a description of the overall quantity, initial unit designations and number of bedrooms and number of bedroom types of Affordable Rental Units in a Development Project or portion of a Development Project which 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 Development Project or the rental portion of a Development 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.
5. Reference to an 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. The housing marketing and selection plan shall provide for local preferences in resident selection to the maximum extent permitted under applicable law. Such plan shall be consistent with DHCD guidance and approved by DHCD. Consistent with DHCD guidance, such plan 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, and may only provide for additional preferences in resident selection to the extent such preferences are also consistent with applicable law and approved by DHCD.
6. 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;
7. 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;
8. 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;

9. Provision for effective monitoring and enforcement of the terms and provisions of the Affordable Housing Restriction by the Monitoring Agent;
10. Provision that the 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;
11. Provision 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;
12. 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 Bylaw and containing such other information as may be reasonably requested in order to ensure affordability;
13. A requirement that residents in Affordable Housing provide such information as the Monitoring Agent may reasonably request in order to ensure affordability; and
14. Designation of the priority of the Affordable Housing Restriction over other mortgages and restrictions.

A.5.7. 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.

A.5.8 Age Restrictions. Nothing in this Article 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 A.5.3, 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.

A.5.9 Phasing. For any Project that is approved and developed in phases in accordance with Section A.8.4, the percentage of Affordable units in each phase shall be at least equal to the minimum percentage of Affordable Housing required under Section A.5.1. Where the percentage of Affordable Housing is not uniform across all phases, the unit dispersal and bedroom proportionality requirements under Section A.5.5 shall be applied proportionately to the Affordable Housing provided for in each respective phase.

**A.5.10 No Waiver.** Notwithstanding anything to the contrary herein, the Affordability provisions in this Section A.5.0 shall not be waived unless expressly approved in writing by DHCD.

**A.5.11 Failure of the Monitoring Agent.** In the case where the Monitoring Agent cannot adequately carry out its administrative duties, upon certification of this fact by the Select Board or by the Department of Housing and Community Development, the administrative duties shall devolve to and thereafter be administered by a qualified housing entity designated by the Select Board or, in the absence of such designation, by an entity designated by the Department of Housing and Community Development.

**A.5.12 Annual Update.** On or before July 31 of each year, the Select Board shall cause to be filed an Annual Update with the DHCD in a form to be prescribed by DHCD. The Annual Update shall contain all information required in 760 CMR 59.07, as may be amended from time to time, and additional information as may be required pursuant to G.L. c. 40S and accompanying regulations. The Town Clerk of the Town of Littleton shall maintain a copy of all updates transmitted to DHCD pursuant to this Bylaw, with said copies to be made available upon request for public review.

**A.5.13 Notification of Issuance of Building Permits.** Upon issuance of a residential building permit within the districts established herein, the Building Commissioner of the Town of Littleton shall cause to be filed an application to the DHCD, in a form to be prescribed by DHCD, for authorization of payment of a one-time density bonus payment for each residential building permit pursuant to Mass. Gen. Laws Ch. 40R. The application shall contain all information required in 760 CMR 59.06(2), as may be amended from time to time, and additional information as may be required pursuant to Mass. Gen. Laws Ch. 40S and accompanying regulations. The Town Clerk of the Town of Littleton shall maintain a copy of all such applications transmitted to DHCD pursuant to this Bylaw, with said copies to be made available upon request for public review.

## **A.6. DIMENSIONAL AND DENSITY REQUIREMENTS - GENERAL**

**A.6.1 Table of Requirements.** Notwithstanding anything to the contrary in this Zoning Bylaw, the dimensional requirements applicable in the SGOD are as follows. A maximum density of:

- 8 units per acre for Developable Land zoned for single-family residential use
- 12 units per acre for Developable Land zoned for 2- and/or 3-family residential use; and
- 20 units per acre for Developable Land zoned for multi-family residential use.

## **A.7. PARKING REQUIREMENTS - GENERAL**

**A.7.1 Maximum Parking Requirements.** The maximum parking requirements applicable for Projects within each SGOD are outlined in each SGOD Article.

4/16/2021

A.7.2 Shared Parking. Notwithstanding anything to the contrary herein, the use of shared parking to fulfill parking demands within an SGOD that occur at different times of day is strongly encouraged. Minimum parking requirements 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) or the PAA is otherwise satisfied that the reduced parking is nonetheless sufficient and consistent with smart growth practices.

A.7.3 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, 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) To the extent consistent with 760 CMR 59.04(1)(g) and 760 CMR 59.04(1)(i)1., 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) Any applicable transportation demand management strategies that will be integrated into the Project or such other factors as may be considered by the PAA.

A.7.4 Location of Parking. Any surface parking lot shall, to the maximum extent feasible, be located at the rear or side of a building, relative to any principal street, public open space, or pedestrian way.

## A.8. PLAN APPROVAL OF PROJECTS: GENERAL PROVISIONS

A.8.1 Plan Approval. An application for Plan Approval shall be reviewed by the PAA for consistency with the purpose and intent of Sections A.8.0 through A.12.0. Such Plan Approval process shall be construed as an As-of-Right review and approval process as required by and in accordance with the Governing Laws. The following categories of Projects shall be subject to the Plan Approval process:

- a) Any Residential Project;
- b) Any Mixed-use Development Project;
- [c) Any project consisting solely of non-residential uses; and
- d) Any Project seeking a waiver.

**A.8.2 Plan Approval Authority (PAA).** The Littleton 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.

**A.8.3 PAA Regulations.** The Plan Approval Authority shall adopt and file with Town Clerk administrative rules and regulations (PAA Regulations) relative to Plan Approval. Such rules and regulations and any amendments thereof must be approved by the Department of Housing and Community Development before they are applied to an Application for Plan Approval.

**A.8.4 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 buildup 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 5.9.

## A.9. PLAN APPROVAL PROCEDURES

**A.9.1 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 buildup 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 SGOD.

**A.9.2 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 A.5.0, the application shall be accompanied by all materials required under Section A.5.3. 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.

**A.9.3 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.

**A.9.4 Circulation to Other Boards.** Upon receipt of the application, the PAA shall immediately provide a copy of the application materials to the Select Board, Board of Appeals, Board of Health, Conservation Commission, Fire Department, Police Department, Building Commissioner, Department of Public Works, the Monitoring Agent (if already identified, for any Project subject to the Affordability requirements of Section A.5.0), 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.

**A.9.5 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.

**A.9.6 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.

## **A.10. PLAN APPROVAL DECISIONS**

**A.10.1 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 Article, the applicable Design Standards, 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 A.5.0, compliance with condition (2) above shall include written confirmation by the Monitoring Agent that all requirements of that Section have been satisfied. Any Plan Approval decision for a Project subject to the affordability restrictions of Section A.5.0 shall specify the term of such affordability, which shall be no less than thirty years. The PAA may attach conditions to the Plan Approval decision that are necessary to ensure substantial compliance with this Article, or to mitigate any extraordinary adverse potential impacts of the Project on nearby properties.

The Approving Authority may impose conditions on a Development Project as necessary to ensure compliance with the District requirements of this Article XXXI and applicable Design Standards, or to mitigate any extraordinary adverse impacts of the Development Project on nearby properties, insofar as such conditions are compliant with the provisions of G.L. Ch. 40R and applicable regulations and do not Unduly Restrict opportunities for development.

**A.10.2 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 Article, the applicable Design Standards, and the PAA Regulations, or that a requested waiver therefrom has not been granted; or
3. it is not possible to adequately mitigate extraordinary adverse Project impacts on nearby properties by means of suitable conditions.

**A.10.3 Waivers.** Upon the request of the Applicant and subject to compliance with M.G.L. c. 40R, 760 CMR 59.00 and Section 5.10, the Plan Approval Authority may waive dimensional and other requirements of this Article, 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 Article.

**A.10.4 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 in each phase shall be at

least equal to the minimum percentage of Affordable Housing required under Section A.5.1.

**A.10.5 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.

**A.10.6 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.

**A.10.7 Effective Date.** The effective date of this Bylaw shall be the date on which such adoption is voted upon by Town meeting pursuant to the requirements of G.L. c. 40A Section 5 and G.L. c 40R; provided, however, that an Applicant may not proceed with construction pursuant to this Bylaw prior to the receipt of final approval of this Bylaw and accompanying Zoning Map by both the DHCD and the office of the Massachusetts Attorney General.

## **A.11. CHANGE IN PLANS AFTER APPROVAL BY PAA**

**A.11.1 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.

**A.11.2 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 4/16/2021

minor change as described above, shall be processed by the PAA as a new application for Plan Approval pursuant to Sections A.8.0 - through A.12.0.

## **A.12. DESIGN STANDARDS - GENERAL**

**A.12.1 Adoption of Design Standards.** Any Project undergoing the Plan Approval process shall be subject to design standards “SGOD Design Standards” contained in a separate document.

**A.12.2 Purpose.** The Design Standards are adopted to ensure that the physical character of Projects within the SGOD:

- 1) will be complementary to nearby buildings and structures;
- 2) will be consistent with the Comprehensive Housing Plan, Littleton master plan, Littleton Station Village Vision Plan, or any other plan document adopted by the Town; and
- 3) will provide for high-density quality development consistent with the character of building types, streetscapes, and other community features traditionally found in densely settled areas of the Town or in the region of the Town.

**A.12.3 Design Standards.** The Approving Authority shall adopt Design Standards governing the issuance of Plan Approvals for Development Projects within any SGOD and shall file a copy with the Town Clerk. Such Design Standards shall not extend beyond the scope of the elements explicitly permitted under 760 CMR 59.04(1)(f). Design Standards shall be limited to 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. In addition to the standards set forth in this Bylaw, the physical character of Development Projects within the districts shall comply with the Design Standards unless waived hereunder. In the event of any conflict between this Bylaw and the Design Standards, this Bylaw shall govern and prevail.

## **A.13. SEVERABILITY.**

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

## ARTICLE XXXII. LITTLETON STATION SMART GROWTH OVERLAY DISTRICT

### B.1. PURPOSE

The purposes of this Article are:

1. To establish a District pursuant to the provisions of Article XXXI, Smart Growth Overlay Districts;
2. To establish the Littleton Station Smart Growth Overlay District to promote housing and accessory services within walking distance of the Littleton MBTA Station in a form that meets the objectives of “smart growth” within the purposes of G.L. c. 40R;
3. To provide for a range of housing types to meet the needs of Littleton’s existing and future residents of the Town, in concert with the Littleton Master Plan and the Littleton Station Village Vision Plan;
4. To benefit from the financial incentives provided by G.L. c. 40R, while providing for balanced growth.

B.1.1 Establishment. This District, to be known as the Littleton Station Smart Growth Overlay District is established pursuant to and subject to Article XXXI, Smart Growth Overlay Districts. The Littleton Station Smart Growth Overlay District, hereinafter referred to as the “SGOD,” is an overlay district having a land area of approximately 51.4 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 “Littleton Station Smart Growth Overlay District”, dated       . This map is hereby made a part of the Zoning By-law and is on file in the Office of the Town Clerk.

B.1.2 Subdistricts. The SGOD contains the following subdistricts: High Density Subdistrict A; Medium Density Sub District B; and Low Density Subdistrict C.

### B.2. PERMITTED USES – (DISTRICT-SPECIFIC)

The following Principal Uses, either alone or in any combination thereof, as well as any Accessory Uses to the following Principal Uses, shall be permitted upon Plan Approval pursuant to the provisions of this Article XXXII and Article XXXI, Littleton Station Smart Growth Overlay Districts. All uses not expressly allowed are prohibited.

- (1) In all sub districts:
  - (a) Parking accessory to the allowed Principal Use;
  - (b) Open space and recreational uses;

- (c) Accessory uses customarily incidental to permitted uses;
- (d) Municipal Uses;
- (e) Community or Neighborhood Center.

(2) In “High Density” Sub District A

- (a) Multifamily Use with a maximum density of 20 units per acre and located more than 300 feet from Foster Street;
- (b) Mixed Use with a maximum density of 20 units per acre;
- (c) Restaurants, excluding drive-through windows or service, and shall not exceed 20,000 square feet of gross floor area in total;
- (d) Retail establishment not to exceed 20,000 square feet of gross floor area in total;
- (e) Daycare or elder care center;
- (f) Personal or consumer service establishment;
- (g) Business, professional or general office;
- (h) Bank;
- (i) Health club;
- (j) Senior Residential Development as authorized under a SRD Special Permit;
- (k) Commuter parking, up to 200 spaces.
- (l) Any commercial uses, outlined in b. through i. above, must be incorporated within a multi-story mixed-use structure that includes residential uses above the commercial uses. Residential may also be incorporated into the ground floor of any multi-use structure behind the commercial use(s), as long as the commercial use occupies a minimum 20-foot depth of the first floor of the multi-use structure. Maximum height of structure within 300 feet of Foster Street is 35 feet.

(3) In “Medium Density” Sub District B

- (a) Multifamily Use with a maximum density of 12 units per acre;
- (b) Townhouse Dwellings;
- (c) Starter Homes;

- (d) Daycare center;
- (e) Senior Residential Development as authorized under a SRD Special Permit;

(4) In “Low Density” Sub District C

- (a) Senior Residential Development as authorized under a SRD Special Permit;
- (b) Starter Home; and
- (c) Single-family dwelling.

The total gross floor area devoted to Non-residential uses within a Mixed-use Development Project shall not exceed 30,000 square feet or 50% of the total gross floor area of the Project.

### **B.3. DIMENSIONAL AND DENSITY REQUIREMENTS**

**B.3.1 Table of Requirements.** Notwithstanding anything to the contrary in this Zoning Bylaw, the dimensional requirements applicable in the SGOD are as follows:

A. Density. Development of the following uses shall be limited, as follows:

- (1) Multi-family Dwellings: Sub Area A High Density: 20 units per acre, not to exceed 323 Units total;
- (2) Townhouse Dwellings: Sub Area B Medium Density: 12 units per acre, not to exceed 80 Units total;
- (3) Single Family Dwellings: Sub Area C Low Density: 8 units per acre, not to exceed 120 Units;
- (4) Retail Store: not to exceed 12,000 gross square feet per retail tenant nor a total of 20,000 gross square feet for all retail uses;
- (5) Offices, Banks, and other Commercial Buildings: not to exceed a total of 20,000 gross square feet.

B. Varying sub district density. In order to provide some flexibility for the development of the High and Medium Density Sub districts, The Planning Board may, through the Plan Approval Process, re-allocate up to 15 units between the High Density and Medium Density Sub districts, but the combined total number of units between these two sub districts may not exceed 403. The boundary between the High Density and Medium Density Sub districts may be amended slightly, if, in the opinion of the Planning Board, it is necessary to allow for better overall site layout and design.

C. Minimum Area. There shall be no minimum area of a Development Lot  
4/16/2021

within the Littleton Station Overlay District.

D. Setbacks. There shall be no minimum setback or yard requirements within the Littleton Station Overlay District, except for a minimum buffer of 50 feet from abutting residential properties located outside the District. No buildings or parking shall be allowed within this minimum buffer; landscaping, including plantings or fences, pedestrian paths and sidewalks, access and egress, drainage, utilities and associated easements, and signage and lighting, approved by the Approving Authority may be allowed in this buffer at the reasonable discretion of the Approving Authority.

E. Height. The maximum building height as defined in Section 173-2 shall be 50 feet. All buildings over 35 feet in height shall take advantage of the natural slopes within the Littleton Station District to present a lower-profile view of new buildings to Foster Street and to existing residential uses.

Number of Buildings on a Development Lot. In the Littleton Station Overlay District, more than one principal building may be erected on a Development Lot. Buildings may also be erected across Development Lot lines.

#### **B.4. PARKING REQUIREMENTS**

Parking provided in the Littleton Station Overlay District, including structured parking, shall comply with these provisions and shall not be subject to any other parking provisions of this Bylaw. The following requirements shall apply:

- (1) Single Family and Townhouse Dwellings: maximum of 2 spaces per unit
- (2) Multifamily Dwellings: maximum of 1.5 spaces per unit
- (3) Retail Store: maximum of 1 space per 300 square feet
- (4) Restaurants: maximum of 1 space per 3 seats
- (5) Offices: maximum of 1 space per 300 square feet
- (6) Banks: maximum of 1 space per 300 square feet

Parking shall be designed and constructed to comply with all applicable disability access requirements including, but not limited to, the Americans with Disabilities Act.

#### **B.5. DESIGN STANDARDS**

The Approving Authority shall adopt Design Standards governing the issuance of Plan Approvals for Development Projects within Littleton Station Smart Growth Overlay District and shall file a copy with the Town Clerk. Such Design Standards shall not extend beyond the scope of the elements explicitly permitted under 760 CMR 59.04(1)(f). Design Standards shall be limited to 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. In addition to the standards set forth in this Bylaw, the physical character of Development Projects within the districts shall comply with the Design Standards unless waived hereunder. In the event of any conflict between this Bylaw and the Design Standards, this Bylaw shall govern and prevail.

#### **B.6. SIGNAGE.**

All new signage in the Littleton Station Overlay District shall be approved by the Approving Authority in conjunction with the Plan Approval of a Development Project. The Applicant shall submit, as part of its Plan Review filing, a master signage plan for approval by the Approving Authority. The master signage plan, as may be updated and revised with the approval of the Approving Authority, shall specify all applicable sign types, dimensions, materials, quantities and other standards for review by the Approving Authority in the course of Plan Approval. Upon approval by the Approving Authority, the master signage plan shall become the sole governing source of standards and requirements for all new signage within the Littleton Station Overlay District. Sign permits for any sign meeting these established standards may be issued by the Building Commissioner in accordance with the approved master signage plan.

#### **B.7 FUTURE OPEN SPACE**

All developments under this Article shall incorporate a minimum of 5% future publicly-accessible open space. The primary goal of this open space is to provide an interconnected publicly-accessible trail system through the future developments to provide off-road pedestrian trail amenities for residents of the area and the Town; additional secondary goals of this open space are to preserve views and to provide buffer from wetlands and adjacent properties. The appropriateness of the layout of the publicly-accessible trail will be determined as part of the Site Plan Review of the proposed developments. A trail easement will be conveyed to the Town as a condition of approval of future developments under this 40R bylaw.