

**SOUTH HADLEY FALLS**

(9-16-15)

**SECTION 7. SUPPLEMENTAL DISTRICT REGULATIONS**

**(V) South Hadley Falls Smart Growth District ("the SHFSGD")**

- 1. Purposes** - The purposes of the South Hadley Falls Smart Growth District are:
  - a. To provide an opportunity for residential development and to especially encourage mixed-use development, including both new construction and renovation of existing buildings, within a distinctive, attractive and livable environment that supports the commercial revitalization of South Hadley Falls.
  - b. To promote continuing development and redevelopment in South Hadley Falls that is pedestrian friendly and consistent with South Hadley history and architecture.
  - c. To ensure high quality site planning, architecture and landscape design that enhances the distinct visual character and identity of South Hadley Falls and provides an environment with safety, convenience and amenity.
  - d. To provide for a diversified housing stock at a variety of costs within walking distance of services and public transportation, including affordable housing and other housing types that meet the needs of the Town's population.
  - e. To generate positive tax revenue for the Town, and to benefit from the financial incentives provided by Massachusetts General Law Chapter 40R, while providing the opportunity for new business growth and additional local jobs.
  - f. To encourage preservation and rehabilitation of historic structures and buildings.
  - g. To promote efficient use of land and existing parking supply and limit expansion within the district by encouraging shared parking.
  - h. To encourage adoption of energy efficient building practices and sustainable construction methods.
  - i. To ensure compliance with the Massachusetts Department of Environmental Protection stormwater management policies and practices.
  
- 2. Definitions** - For purposes of this Section 7(V), the following definitions shall apply. All capitalized terms shall be defined in accordance with the definitions established under the Enabling Laws or Section 2.0, or as set forth in the PAA Regulations. To the extent that there is any conflict between the definitions set forth in Section 2.0 or the PAA Regulations and the Enabling Laws, the terms of the Enabling Laws shall govern.

Accessory - A structure, building or use which: (1) is subordinate in function to and serves a principal building or principal use; (2) is subordinate in area or extent to the principal building or principal use served; (3) contributes to the comfort, convenience, or necessity of occupants or the principal building or use; and (4) is located on the same lot as the principal building or use.

Administering/Monitoring Agent – An entity designated by the South Hadley Board of Selectmen, which may be the South Hadley Housing Authority or other qualified housing entity, with the power to monitor and to enforce compliance with the provisions of this Section 7(V) related to Affordable Units, including but not limited to computation of rental and sales prices; income eligibility of households applying for Affordable Units; administration of an approved housing marketing and resident selection plan; and recording and enforcement of an Affordable Housing Restriction for each Affordable Unit in the SHFSGD (See Section 7(V)(10.)(f.)Administrative Regulations – Administrative rules and provisions relative to Plan Approval that are adopted by the Planning Board pursuant to 40R and in its capacity as the 40R Plan Approval Authority under Section 11 . Such rules and regulations and any subsequent amendments must be approved by the Department of Housing and Community Development.

Affordable Homeownership Unit - A Dwelling Unit required to be sold to an Eligible Household per the requirements of this Section.

Affordable Housing – Housing that is affordable to and occupied by Eligible Households.

Affordable Housing Restriction - A deed restriction of an Affordable Unit meeting statutory requirements in Massachusetts General Law Chapter 184 Section 31 and the requirements of Section 7(V)(10.) of this Article.

Affordable Rental Unit - A Dwelling Unit required to be rented to an Eligible Household per the requirements of Section 7(V)(10.).

Affordable Unit - The collective reference to Affordable Homeownership Units and Affordable Rental Units

Allowed Use – A Principal, Accessory or other permitted Use listed under Section 7(V)(5.). A Use that is not prohibited under Section 7(V)(5.).

Annual Update - A list of all approved and currently proposed Smart Growth Districts within the Town of South Hadley and other associated information, to be filed on or before July 31<sup>st</sup> of each year with the Massachusetts Department of Housing and Community Development pursuant to Massachusetts General Law Chapter 40R and applicable regulations (760 CMR 59.07(1)).

Applicant - A landowner or other petitioner who files a plan for a Development Project subject to the provisions of this Section.

Area-wide Median Income - The median income, adjusted for household size, as reported by the most recent information from, or calculated from regulations promulgated by, the United States Department of Housing and Urban Development (HUD).

As-Of-Right or As-Of-Right Development - A use or Development Project allowable under this Section without recourse to a special permit, variance, zoning amendment, or other form of zoning relief. A Development Project that is subject to the Plan Review requirement of this Section shall be considered an As-Of-Right Development.

Building - A combination of any materials, whether portable or fixed, having a roof, to form a structure for the shelter of persons, animals or property. For the purpose of this definition “roof” shall include awning or any similar covering, whether or not permanent in nature. The word “building” shall be construed, where the context requires, as though followed by the words “or part or parts thereof.”

Business - The transacting or carrying on of a trade or commercial enterprise with a view to profit or for livelihood.

Commercial - Any use classified under the category “Business Uses” in Sections 7(V)(5C thru 5G).

Condominium - A system of ownership of real estate, including commercial, industrial, and attached and detached residential dwelling units, established pursuant to the Condominium Act of the Commonwealth of Massachusetts, Chapter 183A of the Massachusetts General Laws, in which the apartments or dwelling units are individually owned and the land and common areas are owned in common. A condominium is not a use or a building type; rather it is a form of ownership that can apply to any use or building type.

Consumer Services - A barber shop, dry cleaning or laundry establishment, photographer's shop or studio or similar business where service is provided directly on the premises.

Density - The number of dwelling units per acre of land.

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

Design Standards – Provisions adopted in accordance with Section 7(V)(19), that shall be applicable to all Development Projects within the SHFSGD that are subject to Plan Review by the Planning Board.

Development Project Or Project - A residential or mixed use development undertaken under this Section. A Development Project shall be identified as such on the Plan which is submitted to the Planning Board for Plan Review.

Dwelling - A building occupied exclusively as a residence for one or more families.

Dwelling - Single-Family - A detached dwelling containing one dwelling unit.

Dwelling - Two-Family - A dwelling containing two dwelling units.

Dwelling - Three-Family - A dwelling containing three dwelling units.

Dwelling - Multi-Family - A dwelling containing four or more dwelling units.

Dwelling Unit - A room or group of rooms designed and equipped exclusively for use as living quarters for only one family, including provisions for living, sleeping, cooking, and eating. The term shall include mobile homes but shall not include house trailers or recreational vehicles.

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

Enabling Laws – M.G.L. Chapter 40R and 760 CMR 59.00

Family - One or more persons occupying a dwelling unit and living as a single housekeeping unit. For purposes of this Section 7.(V):

- a. a family shall not exceed four (4) persons not related by blood or marriage, or
- b. notwithstanding the above, a family shall be deemed to include a Group Residence, Limited, further defined as a premises licensed, regulated, or operated by the Commonwealth of Massachusetts or operated by a vendor under contract with the Commonwealth for the residential living, care, or supervision in any single dwelling unit of five or more mentally ill or mentally retarded persons or persons with disabilities.

Floor Area - The sum of the areas of habitable or commercially usable space on all floors of a structure, including the interior floor area of all rooms (including bathrooms and kitchens), closets, pantries, hallways that are part of a dwelling unit or

inside a commercial building, including habitable finished basements but excluding cellars or unfinished basements.

Frontage - The length of a front lot line adjacent to a street, provided however that the minimum frontage required by this By-Law shall be satisfied by a continuous, uninterrupted segment of such frontage.

Height - The vertical distance between the highest point of the roof of a building and the average finished grade of land on which the building is located. For purposes of this Section 7 (V), the term “height” shall not apply to chimneys, steeples, flag or radio poles, antennas, aerators, required bulkheads, elevator penthouses, or other equipment appurtenances necessitated by the permitted use to which a building is put. In addition, the term, “height” shall not apply to solar energy collectors and equipment used for the mounting or operation of such collectors, provided however that such collectors or equipment shall not impair solar access of other building or other solar installations.

Institutional Use - A non-profit or quasi-public use or institution, such as a church, library, public or private school, municipally owned or operated building, structure or land, used for public purpose.

Loading Space - Off-street space logically and conveniently located for bulk pickups and deliveries by truck, scaled to delivery vehicles expected to be used, and accessible to such vehicles when required off-street parking spaces are filled. Required off-street loading space is not to be included as off-street parking space in computation of required off-street parking space.

Lot - A parcel of land which is or may be occupied by a principal building and its accessory buildings, together with such open yard areas as are required under the provisions of this Section 7 (V). To be used for building purposes, such lot must have frontage on a street as defined below, excepting only a preexisting lot exempted by the provisions of Section 6 of Chapter 40A of the Mass. General Laws. A lot line is a boundary of a lot.

Master Plan - The South Hadley Master Plan adopted by the South Hadley Planning Board and Town Meeting, as amended.

Mixed-Use Development Project - A Development Project containing a mix of residential uses and non-residential uses as specified in Section 7(V)(5.) and subject to all provisions of this Section 7(V).

Non-Residential Use - Office, Retail, Restaurant, Service or Institutional Use, inclusive, or some combination of the same.

Office - A workplace used for the transaction of business or non-profit functions, excluding as principal uses manufacturing, retail construction, and warehousing and including but not limited to professional offices and offices that support or manage on-site or off-site manufacturing, retailing, construction, and warehousing, as well as research laboratories and other facilities in which research activities are conducted. An office that is operated as part of another primary use on the use table shall be considered accessory to that primary use and not a separate use.

Parking (Off-Street) - For purposes of this Section 7 (V), an off-street parking space shall consist of an area for parking an automobile with room for opening doors on both sides, together with properly related access to a street and sufficient maneuvering room, but shall be located totally outside of any street or alley right-of-way.

Plan - A plan depicting a proposed Development Project for all or a portion of the South Hadley Falls Smart Growth District and which is submitted to the Planning Board for its review and approval in accordance with the provisions of this Section 7(V).

Plan Approval - The Planning Board's authorization, acting as the Plan Approval Authority (PAA) per the Enabling Laws, for a proposed Development Project based on a finding of compliance with this Section and Design Standards after the conduct of a Plan Review.

Plan Approval Authority (PAA) - The South Hadley Planning Board authorized under Section 11 to conduct the Plan Approval process for purposes of reviewing Project applications and issuing Plan Approval decisions within the SHFSGD.

Plan Review - The review procedure established by this Article and administered by the Town of South Hadley Planning Board acting as PAA.

Principal Building - The primary use to which the premises are devoted, and the main purpose for which the premises exist.

Principal Use - The primary use to which the premises are devoted, and the main purpose for which the premises exist.

Project – A Residential Project or Mixed Use Development Project undertaken in accordance with the requirements of Section 7(V).

Residential Project – A Project that consists solely of residential, parking and accessory uses as defined in Section 7(V)(5).

Residential Use - A building or part of a building containing Dwelling Units as defined herein above and parking that is accessory to the Dwelling Units.

Restaurant - A commercial establishment in which the primary activity consists of the preparation and serving of food for consumption on the premises or as take-out, including a bar or pub or other establishment that sells food and alcoholic beverages for on-premises consumption, excluding catering businesses and retail uses that sell prepared food.

Retail/Retail Sales - An establishment selling goods directly to the general public for personal and household consumption, including but not limited to an appliance store, bakery, delicatessen, drug store, florist, grocer, hardware store, liquor store, newsstand, shoe store, stationery store, convenience store, and variety store, excluding a restaurant.

School - A building devoted to the instruction or education in primary, secondary, high school, or post-high school grades.

Service - The performance of any act for the benefit of another with a view to profit or for a livelihood.

Setback - The minimum required unoccupied space or distance between lot line, and any part of a principal or accessory building nearest such lot line, such unoccupied space or area extending the entire distance across the lot. Front, side and rear setback lines are identified in accordance with the diagram below:



zoning adoption and amendment as set forth in Massachusetts General Law Chapter 40A and approved by the Department of Housing and Community Development pursuant to Massachusetts General Law Chapter 40R and applicable regulations.

Underlying Zoning - The zoning requirements adopted pursuant to Massachusetts General Law Chapter 40A that are otherwise applicable to the geographic area in which the SHFSGD is located, as said requirements may be amended from time to time.

Unrestricted Unit - A Dwelling Unit that is not restricted as to rent, price or eligibility of occupants.

Use - The purpose for which land or a building or structure is arranged, designed, intended or erected, or for which land or a building or structure is or may be occupied.

- 3. Scope and Authority** - The South Hadley Falls Smart Growth District is established pursuant to the Enabling Laws, and shall be deemed to overlay the parcels as shown on the Zoning Map of the Town of South Hadley, as amended. The Underlying Zoning shall remain in effect, and the Applicant shall have the option of applying for Plan Approval pursuant to the zoning controls set forth in this Article or complying with all applicable zoning controls set forth in the Zoning Bylaw of the Town of South Hadley for the underlying district(s) or for other overlay zoning that may be therein defined. Development Projects proceeding under this Article shall be governed solely by the provisions of this Article and shall be deemed exempt from the standards and/or procedures of the Underlying Zoning and other overlay provisions, including limitations upon the issuance of building permits for residential uses related to a rate of development or phased growth limitation or to a local moratorium on the issuance of such permits, or to other building permit or dwelling unit limitations.
- 4. Establishment and Delineation of the SHFSGD** - The South Hadley Falls Smart Growth District is an overlay district that is superimposed over the Underlying District. The boundaries are delineated as the "South Hadley Falls Smart Growth District" on the Official Zoning Map of the Town of South Hadley on file in the office of the Town Clerk, said map hereby made a part of the South Hadley Zoning Bylaw.
- 5. Allowed and Prohibited Uses** - Any use not listed herein as an Allowed Use is deemed prohibited.

**Allowed Uses** - The following uses shall be permitted As-Of-Right in the SHFSGD upon Plan Approval pursuant to the provisions of this article:

- a. Multi-Family Dwelling
- b. Single-Family, Two-Family and Three-Family Dwelling\*

- c. Office \*
- d. Retail \*
- e. Restaurant (excludes drive-through windows)\*
- f. Institutional \*
- g. Consumer Service \*

\*Only as part of a Mixed-Use Development; see Section 7(V)(7.) below

In addition to the Allowed Uses listed above, the following uses are permitted As-Of-Right for Development Projects within the SHFSGD subject to the requirements of this Article:

- h. Parking accessory to any of the above permitted uses, including surface, garage-under, and structured parking
- i. Accessory uses customarily incidental to any of the above permitted principal uses

**Performance Standards** – All permitted uses must comply with the following:

- a. Does not regularly emit noxious odors, or dust particles, or smoke, or poses danger, such as manufacture of acids, gases, fertilizers and glue, petroleum refining, reduction of animal matter, and manufacture of cement, gypsum, or explosives.
- b. Does not present a danger to persons within or outside the District by reason of emission of odor, fumes, gases, particulate matter, smoke, noise, vibration, glare, radiation, electrical interference, threat of fire or explosion, or any other reason.
- c. Complies with the town Stormwater Management Bylaw as provided to DHCD on September 18, 2015, regardless of the amount of area being disturbed. Until such time that the Town of South Hadley has qualified for a density bonus payment under 760 CMR 59.06(2) for one or more 40R bonus units permitted within the SHFSGD, any subsequent amendments to Stormwater Management Bylaw shall not apply to Development Projects in the SHFSGD until DHCD has received written notice of such amendment(s) and determined that such amendment(s) does not Unduly Restrict development within the SHFSGD as per 760 CMR 59.02.

**6. Dimensional and Other Requirements** - Applications for Plan Approval shall be governed by this Section and the Design Standards for the South Hadley Falls Smart Growth District.

<b>Dimensional Requirement</b>	
Maximum Floor Area Ratio (FAR) (Gross Floor Area / Lot Size)	3
Maximum Building Height	45 feet
Minimum Lot Frontage	50 feet
Maximum Lot Coverage	N/A***
Minimum Lot Area	N/A***
Number of Buildings per lot	N/A***
Maximum Building Frontage	300 feet

Minimum Front Setback*	0 feet
Maximum Front Setback*	10 feet
Minimum Side / Rear Setback** abutting a Residential Zone	15 feet
Minimum Side / Rear Setback** in SHFSGD or abutting Business-B	0 feet
Interior Setback (between buildings on same lot)	15 feet

\*See 7.1.1 of the Design Standards for front facade setback requirements

\*\*See 7.1.2 of the Design Standards for building step-back requirements

\*\*\*No requirement or limitation applies

- a. Residential Density Allowances - The minimum Multi-Family Residential density shall be 20 units per acre and the maximum Multifamily Residential Density shall be 24 units per acre for all lots and all buildings. The Single-Family Residential Density shall be a maximum of up to 8 units/acre and Two-Family and Three-Family Residential Density shall be a maximum of up to 12 units/acre.
    - i. The Planning Board may provide a waiver, including permitting a density of less than 20 units per acre for Multi-Family, as specified in Section 7(V)(12.) to promote the renovation or adaptive reuse of existing buildings.
  - b. Contiguous Lots - In the SHFSGD, where two or more lots are contiguous or are separated by a right-of-way, such lots may be considered as one lot for the purpose of calculating maximum lot coverage; parking requirements; minimum useable open space; and Dwelling Units per acre.
  - c. Age-Restricted Housing Units - An Applicant may propose a Residential or Mixed-Use Development Project in which all Dwelling Units are designed for or are accessible to the elderly or the handicapped under all applicable laws and regulations, provided that not less than twenty-five percent (25%) of the housing units in any such Development Project shall be Affordable Units. All such Development Projects shall be governed by the requirements of this Section and the Design Standards.
- 7. Mixed-Use Development** - Development Projects may include a portion not to exceed 50% of the total gross floor area to be used for non-residential uses including Office, Retail, Restaurant, Service or Institutional Uses. Residential units must generally be located above the first-floor but may be permitted in first floor portions of the building where that portion of the building fronts on a public way, the Planning Board must determine that it is principally a residential street or that such first floor residential use would be in keeping with the character of the adjoining land uses.
- 8. Off-Street Parking and Loading**
- a. Off-Street Parking - Retail stores, offices and Consumer Service establishments located within three hundred (300) feet of a public off-street parking facility shall

be exempt from off-street parking requirements. In all other cases, off-street parking shall be provided to meet the following minimum requirements:

USE	Number of Parking Spaces
Retail or Restaurant	0
Office and Institutional	2 per 1,000 square feet
Residential Units	1.25 per unit
Other Non-Residential, less than 2,000 square feet	0
Other Non-Residential, 2,000 square feet or more leasable space in excess of 2,000 square feet	1 per 2,000 square feet.

As indicated above, off-street parking is not required for Other Non-Residential uses in the district unless such use exceeds 2,000 square feet of net floor area.

- b. Off-Street Loading & Delivery - Off-street loading spaces shall be provided to meet or exceed the following minimum requirements:

Use	Number of Parking Spaces
Restaurant - leasable space in excess of 2,000 square feet	1 space per 2,000 square feet
Other allowed Secondary Use - leasable space in excess of 2,000 square feet	1 space per 5,000 square feet

The Planning Board may waive the loading space requirement if the Applicant provides a plan proving that the loading space is not needed or can be shared.

- c. Location of Parking - Any surface parking lot shall, to the maximum extent feasible, be located at the side or rear of a building, relative to any public right-of-way, public open space, or pedestrian way. In no case shall surface parking for new construction be permitted within the required front yard setbacks.
- d. Waiver of Parking Requirements - The Planning Board may grant a Plan Approval making such modifications in the standards or prescribe safeguards and conditions as it shall warrant appropriate, provided that it finds that it is impractical to meet the standards and that such modifications are appropriate by reason of the proposed use and will not result in or worsen parking or traffic problems in the SHFSGD. The Planning Board may impose conditions of use or occupancy appropriate to such modifications.
- e. Shared Use of Required Parking - Shared use may be made of required parking spaces by intermittent use establishments, for example, churches, assembly halls or theaters, whose peak parking demand is only at night or on specific days of the week; by other uses whose peak demand is only during the day; or in public parking lots. At the time of application, a formal agreement shall be made in writing by the owners of the uses involved concerning the number of spaces involved, substantiation of the fact that such shared use is not overlapping or in conflict, and the duration of the agreement.

The applicant shall 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 industry established studies on shared parking).

- f. Cooperative Establishment and Operation of Parking Areas - Required spaces for any number of uses may be provided in a combined lot or lots (public or private), provided that the number of spaces in the combined facility shall not be less than the sum of those required of the individual uses, with allowances made, upon formal designation, for night use or for separate and distinct working shifts, and provided also that such lot or lots shall be within 600 feet of the principal buildings served.
  - g. Parking Design - Parking shall be designed and constructed to comply with all applicable disability access requirements including but not limited to the Americans with Disabilities Act (ADA) and 521 CMR.
- 9. Open Spaces and Recreational Areas** - The site design for Development Projects may include common open space and facilities. Where proposed, the plans and any necessary supporting documents submitted with an application for Plan Approval within the SHFSGD shall show the general location, size, character, and general area within which common open space or facilities will be located. The plans and documentation submitted to the Planning Board shall include a description of proposed ownership and maintenance provisions of all common open space and facilities and, if requested by the Planning Board, any necessary restrictions or easements designed to preserve the open space and recreational areas from future development. Upon consideration of the above information, the Planning Board may approve a waiver as provided for in Section 7(V)(12.) for a front setback to allow for common open space or facilities.
- 10. Affordable Housing** - Affordable Units shall comply with the following requirements:
- i. The monthly rent payment for an Affordable Rental Unit, including utilities and parking, shall not exceed thirty percent (30%) of the maximum monthly income permissible for an Eligible Household, assuming a household size equal to the number of bedrooms in the unit plus one, except in the event of an Eligible Household with a Section 8 voucher in which case program rent limits shall apply.
  - ii. 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 household size equal to the number of bedrooms in the unit plus one.

- iii. Affordable Units required to be offered for rent or sale shall be rented or sold to and occupied only by Eligible Households.
- a. Number of Affordable Units - Twenty percent (20%) of all Dwelling Units and twenty-five percent (25%) of all rental Dwelling Units constructed in a Development Project shall be Affordable Units. Provided however, for Development Projects in which all of the Dwelling Units are limited to occupancy by elderly persons and/or by persons with disabilities, twenty-five percent (25%) of the Dwelling Units shall be Affordable Units, whether the dwelling units are rental units or ownership units.
- b. Fractional Units - When the application of the percentages specified in Subsection 7.(V)(10)(a.) results in a number that includes a fraction, the fraction shall be rounded up to the next whole number.
- c. Design and Construction - Affordable Units must be dispersed equitably and proportionately throughout a Development Project, including, where applicable, across all buildings, floors and unit types. Affordable Units must be comparable in initial construction quality and exterior design to the Unrestricted Units. However, nothing in this section is intended to limit a homebuyer's rights to renovate a Dwelling Unit under applicable law. The Affordable Units must have access to all on-site amenities. Affordable Units shall be finished housing units. All Affordable Units must be constructed and occupied not later than concurrently with construction and occupancy of Unrestricted Units. In Development Projects that are constructed in phases, Affordable Units must be constructed and occupied in proportion to the number of units in each phase of the Development Project.
- d. Unit Mix - The total number of bedrooms in the Affordable Units shall be at least proportionate to the total number of bedrooms in all units of the Project of which the Affordable Units is part.
- e. Affordable Housing Restriction - Each Affordable Unit shall be subject to an Affordable Housing Restriction approved by DHCD, pursuant to 40R, and recorded with the County Registry of Deeds or Land Court Registry District of the County. All Affordable Housing Restrictions must include, at minimum, the following:
  - i. A description of the Affordable Homeownership Unit, if any, by address and number of bedrooms; and a description of the overall quantity and number of bedrooms and number of bedroom types of Affordable Rental Units in a Development or portion of a Development 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 or the rental portion of a Development without specific unit identification.

- ii. The term of the Affordable Housing Restriction which shall be in perpetuity or for the longest period customarily allowed by law but shall be no less than thirty (30) years.
- iii. The name and address of the Monitoring Agent with a designation of its power to monitor and enforce the Affordable Housing Restriction.
- iv. Reference to a housing marketing and resident selection plan, to which the Affordable Unit is subject, and which includes an affirmative fair housing marketing program, including public notice and a fair resident selection process. If approved by DHCD, pursuant to 40R, 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 preference for such unit shall be given to a household of the appropriate size.
- v. 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.
- vi. Reference to the formula pursuant to which rent of a rental unit or the maximum resale price of a homeownership unit will be set.
- vii. A requirement that only an Eligible Household may reside in an Affordable Unit and that notice of any lease or sublease of any Affordable Unit shall be given to the Monitoring Agent.
- viii. Provision for effective monitoring and enforcement of the terms and provisions of the Affordable Housing Restriction by the Monitoring Agent.
- ix. Provision that the restriction on an Affordable Homeownership Unit shall run in favor of the Monitoring Agent and the Town of South Hadley, in a form approved by municipal counsel and DHCD pursuant to the Enabling Laws, and shall limit initial sale and re-sale to and occupancy by an Eligible Household.
- x. 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 provisions of this Section 7(V)(10.) and containing such other information as may be reasonably requested in order to ensure affordability.
- xi. Provision that the restriction 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 the Town of South Hadley, in a form approved by municipal counsel and DHCD pursuant to the Enabling Laws, and shall limit rental and occupancy to an Eligible Household.
- xii. A requirement that residents in Affordable Units provide such information as the Monitoring Agent may reasonably request in order to ensure affordability.
- xiii. Designation of the priority of the Affordable Housing Restriction over other mortgages and restrictions.

- f. Administration - The Monitoring Agent shall ensure the following (See Section 7(V)(2.) Definitions):
  - i. Prices of Affordable Homeownership-Units are properly computed; rental amounts of Affordable Rental Units are properly computed.
  - ii. Income eligibility of households applying for Affordable Units is properly and reliably determined.
  - iii. The housing marketing and resident selection plan has been approved by DHCD pursuant to the Enabling Laws, conforms to all requirements and is properly administered.
  - iv. 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.
  - v. Affordable Housing Restrictions meeting the requirements of this section are recorded with the Hampshire County Registry of Deeds or Land Court. In the case where the Monitoring Agent cannot adequately carry out its administrative duties, upon certification of this fact by the Planning 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 South Hadley Board of Selectmen.
  
- g. Costs of Housing Marketing and Selection Plan - The housing marketing and selection plan may make provision for payment by the owner of reasonable costs to the Monitoring Agent and the owner shall pay 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.

In combination, the various documentation required under Section 10, 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.

**11. Plan Approval Procedures** - The Planning Board shall adopt and file with the Town Clerk Administrative Regulations relative to the application requirements and contents for Plan Review, subject to approval by the Massachusetts Department of Housing and Community Development. Plan approval procedures shall be as follows:

- a. Pre-Application Requirements - Prior to the submittal of a Plan for Plan Approval, a "Concept Plan" may be submitted to help guide the development of the definitive submission for project build out. Such Concept Plan shall reflect the following:

- i. Overall building envelope areas
- ii. Open space and natural resource areas
- iii. General site improvements, drainage plans, groupings of buildings and proposed land uses
- iv. Anticipated parking spaces and locations
- v. Site vehicular access

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

- b. Application Procedures - All Projects are subject to Plan Approval.
  - i. **Submittal** - An application for Plan Approval shall be submitted in accordance with the requirements herein and further specified in the SHFSGD Administrative Regulations, on the form provided by the PAA along with the application fees set forth in the Administrative Regulations. The application shall be accompanied by such plans and other documents as required by the Administrative Regulations required to verify compliance with any of the provisions of this Section in a manner that, as defined in 760 CMR 59.02, does not Unduly Restrict development within the SHFSGD. In addition to the submission requirements of Administrative Regulations, an application for Plan Approval shall also include all of the following:
    - Development narrative including all uses, breakdown of square footage for each use, number of housing units and zoning summary.
    - Photos of adjacent properties and other properties impacted by the development project

All plans shall be prepared by certified architects or engineers as required by the Massachusetts Building Code and shall include all of the following:

- Building plans – all levels including roof
- Building elevations – all sides including courtyards and interior lot elevations
- Massing perspective sketches or renderings illustrating the key elements of the development proposal within its context
- Proposed exterior lighting plan with photometric information
- Proposed stormwater management plan with rainwater calculations in accordance with the town's Stormwater management Bylaw regardless of the size of the land area being disturbed. However, if the Planning Board as the Stormwater Management Permitting Authority determines that the area of disturbance is so de minimis as to render calculations insignificant.
- The documents shall clearly differentiate between existing and proposed work by use of screened lines or color. Changes and revisions to subsequent submittals shall be prominently noted.

An application for Plan Approval shall be filed by the Applicant with the Town Clerk. A copy of the application, including the date of filing certified by the Town Clerk, as well as the required number of copies of the application, shall be filed forthwith by the Applicant with the Planning Board. Application submissions must include a hard copy as well as an electronic copy in PDF and CAD format. Said filing shall include any required forms provided by the Planning Board. As part of any application for Plan Approval for a Development Project, the Applicant must submit the following documents to the Planning Board and the Monitoring Agent:

- Evidence that the Development Project complies with the cost and eligibility requirements of Section 7(V)(10);
  - Development Project plans that demonstrate compliance with the design and construction standards of Section 7(V)(10.) (c); and
  - A form of Affordable Housing Restriction that satisfies the requirements of Section 7(V)(10)(e.).
  - Review Fees: The Applicant shall be required to pay for reasonable consulting fees to provide peer review of the application for the benefit of the Planning Board, pursuant to G.L. Chapter 40R, Section 11(a). Such fees shall be held by the Town of South Hadley in an interest-bearing escrow account, and shall be used only for expenses associated with the use of outside consultants employed by the Planning Board in reviewing the Plan application. Any surplus funds remaining after the completion of such review, including any interest accrued, shall be returned to the Applicant forthwith;
- ii. Circulation to Other Boards – In accordance with the Requirements of Section 12. Site Plan Review, the Planning Board shall provide a copy of the application materials to all relevant municipal Boards, Departments, Commissions and Officials as determined by the Planning Board and, if the project is subject to Affordability requirements, the Monitoring Agent. These entities shall provide any written comments within 60 days of receipt of the plan and application.
- iii. Public Hearing and Time Limits - The Planning Board shall hold a public hearing and review all applications according to the procedure specified in Massachusetts General Law Chapter 40A Section 11.

The decision of the Planning Board shall be made, and written notice of the decision filed with the Town Clerk within 120 days of receipt of the Application by the Town Clerk. This time may be extended by mutual agreement between the Planning Board and the Applicant by written agreement filed with the Town Clerk. Failure of the Planning Board to take action within said 120 days or the extended time shall be deemed an approval of the Plan Approval application.

- iv. Criteria for Plan Approval - The Planning Board shall approve the Development Project upon the following findings:
  - a. The Applicant has submitted the required fees and information as set forth in the SHFSGD Administrative Regulations; and
  - b. The proposed Development Project as described in the application meets all of the requirements and standards set forth in this Section, applicable Design Standards and the SHFSGD Administrative Regulations, or a waiver has been granted there from; and
  - c. Any extraordinary adverse potential impacts of the Project on nearby properties have been adequately mitigated.  
For a Project subject to Affordable Housing requirements, compliance with Condition b. above shall include written confirmation by the Monitoring Agent that all Affordable Housing requirements have been satisfied.
  
- v. Criteria for Plan Denial - A Plan Approval application may be disapproved only where the Planning Board finds that:
  - d. The applicant has not submitted the required fees and information as set forth in the SHFSGD Administrative Regulations; or
  - e. The Project as described in the application does not meet all the requirements and standards set forth in this Section, applicable Design Standards and the SHFSGD Administrative Regulations, or that a required waiver there from has not been granted; or
  - f. It is not possible to adequately mitigate significant project impacts on nearby properties by means of suitable conditions.

**12. Waivers** - Upon request of the Applicant, the Planning Board may waive dimensional and other requirements, including design standards, with conditions, 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 SHFSGD and the South Hadley Master Plan, and if it finds that such waiver will allow the project to achieve the density, affordability, mix of uses and/or physical character allowed under this Section. Notwithstanding anything to the contrary in this Zoning Bylaw, the Affordable Housing provisions of Section 7(V)(10.) shall not be waived. The Planning Board will also take into consideration the following items when considering a waiver:

- a. High performance energy efficient buildings and construction methods.
- b. Projects with publicly accessible open space.
- c. Projects that include retail and restaurants located on street level.
- d. A demonstrated shared parking initiative that makes efficient use of land and existing parking supply.
- e. The preservation or rehabilitation of historic properties or other buildings considered significant to the Town.

### **13. Plan Changes After Approval by Planning Board**

- a. Minor Plan Changes - After Plan Approval, an Applicant may apply to make minor changes in a Development Project that do not affect the overall build out 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 Planning Board on redlined prints of the approved plan, reflecting the proposed change, and on application forms provided by the Planning Board. The Planning Board may authorize such changes at any regularly scheduled meeting, without the need to hold a public hearing. The Planning Board 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.
- b. Major Plan Changes - Those changes deemed by the Planning Board to constitute a major change in a Development 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 Planning Board as a new application for Plan Approval pursuant to this Section.

**14. Fair Housing Requirement** - All Development Projects within the SHFSGD shall comply with applicable federal, state and local fair housing laws.

**15. Project Phasing** - The Planning Board may allow a Project to be phased at the request of the applicant or to mitigate any extraordinary adverse impacts on nearby properties and provided that the submission shows the full build-out of the Project and all associated impacts as of the completion of the final phase and subject to approval of the Planning Board. For projects that are approved and developed in phases, the proportion of Affordable units shall be no less than the minimum percentage required for the district as a whole.

**16. Decisions** - The Planning Board 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. If 20 days have elapsed after the decision has been filed with the Town Clerk without an appeal having been filed, or if such appeal having been filed is dismissed or denied, or if a plan is approved by reason of the failure of the Planning Board to timely act, the Town Clerk shall so certify on a copy of the decision. A copy of said decision shall be filed with the Registry of Deeds.

A Plan Approval shall remain valid and 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 an appeal and which time shall be extended if the project proponent is actively pursuing other required permits or there is other good cause for failure to commence.

The Planning Board may require the posting of a performance bond to secure and/or screen a Development Project site in the event that demolition is undertaken but subsequent work lapses, for any reason within or outside the applicant's control, for a period longer than one year.

**17. Date of Effect** - 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 Section 5 of Chapter 40A of the General Laws and Chapter 40R of the General Laws; 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 Department of Housing and Community Development and the Office of the Massachusetts Attorney General.

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

**19. Design Standards** - The Planning Board may adopt and amend, by simple majority vote, Design Standards which shall be applicable to all Projects subject to Plan Approval by the Planning Board. 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.

Before adopting any Design Standard, the Planning Board shall submit the proposed Design Standard to DHCD for approval. Any amendment to the Design Standards shall not take effect until approved by DHCD and filed with the Town Clerk.

An application for Plan Approval that has been submitted to the Town Clerk pursuant to this Section shall not be subject to any Design Standard that has not been approved by DHCD