

**FALL 2015 Special Town Meeting
Planning Board Report to Town Meeting Regarding
Proposed Planning Board Article 12
Proposed South Hadley Falls Smart Growth 40R District**

ARTICLE 12: To see if the Town will vote to amend in the Zoning By-Law **Section 4 DISTRICTS** Subpart (E) **Overlay Districts**, by including a new Overlay District entitled *South Hadley Falls Smart Growth District*; ~~**Section 4 DISTRICTS**~~, Subpart (A) ~~**Establishment of Districts**~~ and by providing a statement of purpose for the South Hadley Falls Smart Growth District; **Section 7 SUPPLEMENTAL DISTRICT REGULATIONS**, by inserting a new Subpart (B) **South Hadley Falls Smart Growth District**, (pursuant to M.G.L. Chapter 40R and 760 CMR 59.00 and M.G.L. Chapter 40S), as detailed in Planning Report to Town Meeting (also available in Town Clerk's Office or at Planning Department) or take any other action relative thereto.

The proposed changes are as follows:

1. In **Section 4, DISTRICTS**, Subpart (E) **Overlay Districts**, add the following,
 - a. **South Hadley Falls Smart Growth District**
The overall purpose of this overlay district is to promote housing and mixed use development in South Hadley Falls consistent with the area's historical and architectural character while ensuring high quality site planning, diversification of the housing supply, promoting pedestrian friendly development, generating positive tax revenue for the Town, and promoting sustainable development practices. The more specific purposes of this overlay district are more detailed in Section 7(B) of the Zoning Bylaw.
2. In **Section 7 SUPPLEMENTAL DISTRICT REGULATIONS**, Subpart (B) "Reserved for Future Use", insert the following new Subpart (B) **South Hadley Falls Smart Growth District** to read as detailed beginning on page 15.

EXISTING PROVISIONS

There are no existing provisions being revised. Rather, as noted above, the new overlay district and its purpose is being added to Section 4(E) and a new Subpart (B) is being inserted into Section 7.

OBJECTIVE: The objectives of article are

- 1) To encourage development of new housing units and mixed-use developments in South Hadley Falls supportive of the Town's redevelopment efforts.
- 2) Further the Town's efforts to promote sustainable development consistent with the Town's Master Plan.
- 3) Promote development of a diversified housing supply.

SUMMARY: This article fulfills the objectives stated above by establishing the Town's first "Smart Growth District" under the State's Chapter 40R program.

BACKGROUND: The amendment proposed in this warrant article has been the result of several years of work with the Pioneer Valley Planning Commission dating back to early 2013. But, the basis for the proposal dates back to the 2010 Master Plan which identified "Revitalize South Hadley Falls" as one of the plans Five Core Initiatives and Sustainability as one of the plan's Guiding Principles (see section "***Relationship to Master Plan***" below).

Benefits of a Smart Growth Zoning Overlay District

There are a variety of reasons to develop and adopt a Smart Growth Zoning Overlay District approved under the 40R program. Among the benefits are:

- **Sustainable development:** Encouraging development where infrastructure already exists is a sustainable approach to development.
- **Development guidance:** Tells developers where the community wants more intense residential development.
- **Revitalization:** Supports downtown and commercial center revitalization and redevelopment.
- **Grants:** Smart Growth Districts are given points on various grant applications.
- **Financial:** The State provides financial incentives for adopting a Smart Growth Zoning Overlay District in the form of a one-time payment upon final approval of the district by the State and Incentive Payments for every dwelling unit permitted under the Overlay District. The One-Time payment has been estimated to be \$350,000 for South Hadley.
- **40B Safe Harbor:** Communities with less than 10% of their housing supply considered "affordable" under the State's Subsidized Housing Inventory list are subject to private developers applying for a Comprehensive Permit which could ignore the local zoning and other regulations. The state has rejected some requests for Project Eligibility Letters from such developers where the community has adopted a Smart Growth Overlay District and is showing activity to develop housing in the district.

Smart Growth Zoning Overlay District Act – 10 years of experience

The Smart Growth Zoning Overlay District Act was enacted by the State in 2004 to encourage communities to create dense residential or mixed-use smart growth zoning districts, including a high percentage of affordable housing units, to be located near transit stations, in areas of concentrated development such as existing city and town centers, and in other highly suitable locations. Since the program was developed, many communities across the Commonwealth have created these Smart Growth Overlay Districts and utilized the tools they offer to facilitate the type of development they desire to occur in places they want it occur.

At least 33 communities across the state have created and obtained State approval of Smart Growth Overlay Districts under the Chapter 40R program. Several communities have created at least two such districts. To date, over 2,400 dwelling units have been permitted under the Smart Growth Zoning Districts.

Some of these Smart Growth Overlay Districts are in the Pioneer Valley Region – in our vicinity as Chicopee, Easthampton, Holyoke, Ludlow, Northampton, and Westfield have adopted such districts.

So, this is not a new program. Rather, it is a program with some history and solid experience – both with the region and across the State.

Criteria for a Smart Growth Overlay District

To be approvable, overlay Districts must be located near transit stations, in existing city and town centers, commercial districts, and other Areas of Concentrated Development, and in other eligible Smart Growth locations. A “transit station” includes a bus stop. After thorough analysis of the South Hadley Falls area and a site visit by representatives of the Department of Housing and Community Development, a portion of the South Hadley Falls area was determined to be eligible for designation due to its proximity to transit service and the concentrated area of development standards.

Process for Obtaining Approval of a District

Creation of a Smart Growth Overlay Zoning District under Chapter 40R, MGL requires planning and lots of data analysis. Thus, the Town utilized the services of the Pioneer Valley Planning Commission (PVPC) under a Technical Assistance Grant to undertake this effort. The steps in this process are as follows:

- 1). The “chief executive” of the Municipality or designee must hold a public hearing on whether the provisions of the proposed Smart Growth Zoning shall be adopted by the Municipality.

- 2). The town then submits its SGZ Application to DHCD for their “Preliminary Determination of Eligibility” (an informal, non-adjudicatory procedure). The process can take up to 90 days.
- 3). Once DHCD has given their final approval - for the Preliminary Determination of Eligibility” - the town then goes through the normal zoning adoption process.
- 4). Once adopted by Town Meeting, the town submits proof of adoption to DHCD (including showing any changes required in their Letter of Eligibility).
- 5). DHCD reviews the submission and issues its final approval (a non-expiring Letter of Approval).

Thus, before the first step – the hearing by the “chief executive” – a draft proposal for a district needed to be developed. During 2013-2014, the PVPC staff, Town Planner, and Planning Board developed such a proposal.

The Town Administrator, as Chief Executive of the Town, held a public hearing on December 9, 2014. Several persons attended that hearing and expressed support for designation of the district. Letters of support were provided from several organizations including the South Hadley Falls Neighborhood Association and the South Hadley Redevelopment Authority.

The application for a Preliminary Determination of Eligibility was submitted to the DHCD in February 2015. During the next many months, the Town Planner and the staff of the PVPC worked with the DHCD staff to make revisions to the submittal to address the statutory requirements and the DHCD staff concerns and comments. This process involved review of the details of the proposed Zoning Bylaw amendment as well as further analysis of the individual parcels within the proposed district boundaries.

A Preliminary Determination of Eligibility for the proposed South Hadley Falls Smart Growth Zoning Overlay District was issued by the DHCD on September 17, 2015 (see attached letter). Subsequently, the Planning Board, PVPC staff, and Town Planner began the third step in the process – the normal zoning adoption process. While a public hearing was held on October 19, 2015, due to a defect in the hearing notice, a new public hearing will be held on November 9, 2015.

If Town Meeting approves the proposed amendment, the Town’s Smart Growth Zoning Overlay District could be approved by the end of the current fiscal year.

Proposed Zoning Bylaw Amendment

Below is a brief synopsis of the principle elements of the proposed Section 7(B) along with an effort to explain why some of the provisions are written as presented.

All-inclusive. A Smart Growth Zoning Overlay District must be an all-inclusive zoning provision to be approved under Chapter 40R procedures. By this, we mean that it cannot rely upon any provision outside of the Smart Growth Overlay District provisions. Therefore, all the definitions, development standards, use allowances, etc. applicable to development under the Overlay District must be contained within the specific section of the Zoning Bylaw. It should be noted that the provisions of the proposed Section 7(B) only apply to developments proposed to utilize the South Hadley Falls Smart Growth Overlay district.

Relationship to Underlying Zoning Districts. The proposed district is an “overlay” zone which does not alter the provisions of the underlying zoning districts. Thus, a parcel of land zoned “Business B” and located within the Overlay District may still be used in accordance with the Business B zoning restrictions and requirements and would have to conform to all other portions of the Zoning Bylaw but not to Section 7(B). However, if the owner sought to use the provisions of the Overlay District, they would have to comply with all of the provisions of Section 7(B) and would not be subject to the normal restrictions of Business B.

Definitions. To the extent possible, the proposed Bylaw amendment uses the terms as defined in Section 3 of the Zoning Bylaw. Some terms are not defined in Section 3 and must be defined in Section 7(B). Approximately four terms are defined slightly differently in Section 7(B) from the way they are defined in Section 3. These differences are due to the State’s requirements applicable to a Smart Growth Zoning Overlay District under Chapter 40R. However, they do not impact the zoning provisions unrelated to the Smart Growth District. For example, under Chapter 40R and its implementing regulations, Multifamily means four or more dwelling units in a single building; but under Section 2 of the Zoning Bylaw, it refers to three or more dwelling units in a single building. To be consistent with the State requirements, Section 7(B) defines “Dwelling, Multi-Family” as encompassing four or more dwelling units.

Allowed Uses. Multifamily development at densities of 20 units or more per acre is at the cornerstone of the development incentive offered by a Smart Growth Zoning District under Chapter 40R. Thus, Multifamily housing is allowed by right exclusively. The following uses are also allowed by right when part of a mixed-used development:

- a. Single-Family, Two-Family and Three-Family Dwelling*
- b. Office *
- c. Retail *
- d. Restaurant (excludes drive-through windows)*
- e. Institutional *
- f. Consumer Service *

Parking and accessory uses are also permitted by right as part of a Development Project under the District provisions.

Performance Standards. Several performance standards are also established. There typical of development requirements – no noxious fumes, smoke, etc., not pose a danger persons due to fumes, odors, etc., and compliance with Stormwater Bylaw requirements and DEP requirements.

Density and Dimensional Standards. Smart Growth Zoning Overlay Districts approved under 40R must allow, by right (or subject to review similar to Site Plan Review but not Special Permit or Variance), residential developments with the following minimum densities:

- Single-Family: 8 units per acre
- Two- & Three-Family: 12 units per acre
- Multi-Family: 20 units per acre

The proposed amendment utilizes these minimum density standards. However, unlike the State provisions, it sets a cap on the number of multi-family units per acre at 24. The reason for setting a cap at this level is to make clear that there is a limit to the allowed density but to also allow applicants some flexibility in design without asking for a waiver of the cap.

Similarly, the amendment provides dimensional requirements specific to the Overlay District. While these dimensional standards have some similarity to some of those of the underlying zoning, they generally vary from the underlying zoning, in part due to the Overlay District requirements being subject to supplemental standards and a Design Review process – similar to Site Plan Review. The table below provides a generalized comparison of the proposed Overlay District standards to those of the underlying zoning districts (please note that there are specific footnotes that apply to some of the dimensional standards – particularly of the underlying zoning districts – which have been omitted in making this generalized comparison).

	Proposed Overlay District	Res B	Bus A	Bus B	Ind A	Ind B
Floor Area Ratio	3	N/A	N/A	N/A	N/A	N/A
Max. Bldg Height	45	45	45	80	40	75
Min. Lot Frontage	50	75	50	100	200	0
Max. Lot Coverage	N/A	40	75	85	40	75
Min. Lot Area	N/A	7,500	10,000	12,000	40,000	0
No. Bldgs per lot	N/A	N/A	N/A	N/A	N/A	N/A
Maximum Building Frontage	300	N/A	N/A	N/A	N/A	N/A
Minimum Front Setback*	0	15	10	0	25	0
Maximum Front Setback*	10	N/A	N/A	N/A	N/A	N/A
Min. Side/Rear Setback** abutting a Res, Zone	15	10/20 or 6/3	6/10	6/5	50	0
Minimum Side/Rear Setback** in SHFSGD or abutting Business-B	0	10/20 or 6/3	6/10	6/5	20/20	0
Interior Setback (bet bldgs on same lot)	15	N/A	N/A	N/A	N/A	N/A

One of the most apparent differences between the Overlay District standards and the underlying zoning district is the use of Floor Area Ratio as opposed to maximum lot coverage. Other noticeable differences include the restriction on maximum front setback and establishment of an interior spacing requirement applicable to buildings on the same lot in the Overlay District.

The Overlay District standards seek to encourage development more in keeping with the traditional New England downtown as opposed to suburban commercial development practices.

Housing Costs. Housing developments are intended to meet a range of population needs. Accordingly, depending upon the ownership type and whether the housing is to be age-restricted, 20% to 25% of the units are to be affordable to persons making 80% of the median income.

Mixed-Use Developments. Generally, up to 50% of the gross floor area of a development may be approved for non-residential use. Along the principal roadways (such as Bridge Street and Main Street), the first floor spaces are not intended to be used for residential purposes.

Off-Street Parking and Loading. Specific provisions are made for parking and loading standards for Smart Growth District developments. These provisions are less rigid and less intense than those of the underlying zoning districts. Flexibility in the provision of off-street parking is incorporated into the amendment and allows such things as off-site and shared parking areas to be approved where appropriate.

Plan Approval Procedures. Applications for project plans are processed and considered similar to Site Plan Review for developments in the underlying zoning districts. All applications must go through a public hearing process with notice to the public and abutters.

Waivers. The Planning Board will have some latitude to grant limited waivers of some the requirements.

Design Standards. The Planning Board may adopt Design Standards by which review and decide upon proposed projects. Draft Design Standards have been prepared by the PVPC staff and are posted on the Planning Board's page on the Town's website.

Relationship to Master Plan. Revitalization of South Hadley Falls is a major focus of the 2010 Master Plan – this is one of the Core Initiatives. Similarly, the need for more housing across all affordability tiers is the focus of an entire chapter in the Master Plan. The first and third Plan Principles and the First and Fifth Core Initiatives relate directly to this amendment:

Managing towards our Shared Vision:

Coordinating Town actions, regulations, and investments consistently towards achieving the community's objectives and goals. This principle envisions efforts to manage town programs, budgets, and actions in a proactive way that is intentionally and thoughtfully directed towards achieving specific outcomes, and applies both to overall planning and policy and to specific actions of town departments. For example, a goal of developing a number of parcels of open space over time might suggest the coordination of complementary economic incentives, zoning bylaws, and infrastructural improvements.

Sustainability:

Promoting policies and actions that will meet the needs of the present without compromising the ability of future generations to meet their own needs.

Sustainability should be understood broadly to include maintaining a long-range focus for Town actions and investments as well as the stewardship of the Town’s natural lands, parks, and public buildings. Sustainability also implies renewed attention to efficiency, or making the most of what we have, whether measured in infrastructure, energy, money, or time, or in natural resources like land and water.

The First Core Initiative is to “Revitalize South Hadley Falls” and the Fifth Core Initiative regarding “Updating the Regulatory Infrastructure to Support the Community’s Desired Outcomes” are both furthered by adopting the 40R Smart Growth District.

Core Initiative 1: Revitalize South Hadley Falls

Goal: *Energize continued redevelopment and investment in South Hadley Falls, in part by using recreation as an organizing focus for economic development, tourism, and investment activity.*

South Hadley Falls represents the area of greatest potential opportunity for redevelopment, investment, and adaptive re-use within the Town. Recently, the renovation of the Beachgrounds Park and planning for riverfront recreation have focused attention on the potential for recreation activities – public and private, indoor and outdoor – to form the organizing theme for renewed revitalization efforts. Connecting the Falls and enhancing it as a recreation destination for residents and tourists alike also holds the potential to enhance the area’s appeal to potential developers and businesses. Many of the Town’s goals for housing, visual quality, and economic development relate strongly to the success of South Hadley Falls. Strong partnerships and new relationships among public agencies, landowners, developers, and particularly the business community will be essential to achieving this goal, making improved communications and information especially important.

Core Initiative 5: Updating the Regulatory Infrastructure to Support the Community's Desired Outcomes

Goal: *Develop and adopt a modern, efficient and effective regulatory infrastructure that creates a framework for enhancing South Hadley’s community, economy, and aesthetic quality.*

To accomplish the Town's many goals, the Town's zoning bylaw, subdivision regulations, zoning map, and review procedures need to be reviewed and revamped to help enable desirable development, improve the business environment, allow for housing diversity, and improve the aesthetic quality of South Hadley. Updated community standards that flow from the principles, goals and recommendations of this Plan will

- help improve housing quality and options;*
- provide consistency and transparency to the development review process;*
- promote infill and development that meets emerging economic models;*
- enact design and landscaping standards that ensure that new investments improve the quality and function of South Hadley's landscapes; and*
- provide historic resource standards that ensure the future of South Hadley's iconic buildings and neighborhoods.*

Strategies include:

- Update the Zoning Bylaw*
- Update Subdivision Regulations*
- Undertake an assessment of the design character and enacting a Design Review Bylaw*
- Expand the boards and committees involved in the development review process*
- Formalize the role of the Development Review Team in carrying out coordinated and expanded development reviews.*
- Discourage new commercial development in the residential areas through zoning*

This amendment seeks to provide another tool to make South Hadley Falls an attractive location for residential and mixed-use investors while ensuring development reflects the heritage of the neighborhood. Similarly, by enacting a more modern approach to permitted development, the amendment will update the Regulatory Infrastructure applicable to this portion of the Town.

The Land Use and Community Design Chapter of the Master Plan also described the South Hadley Falls area as consisting of a variety of land uses, a range of housing densities, and a critical component of the Town's history. It further describes the area with some particular considerations for revitalization as follows:

- The Falls serves as a visible gateway to the Town, and, as such, should be given priority funding for aesthetic improvements. Funding, through grants or the development of a special fund, should aim to assist property owners with maintenance and landscaping as well as contribute to the general beautification of the area.
- Consistent with Town-wide revitalization strategies, the main corridors of the Falls area should consist of mixed-use development whenever possible. New development should be diverse and generally consist of a mixture of office space, retail and residential, with the support of a pedestrian-friendly environment.
- Easy and convenient access to the waterfront in the Falls should be a high priority. This will be made possible with the development of the riverfront parks and could also be achieved with the rehabilitation and reuse of vacant, older mill buildings.
- The revitalization of the Falls should be strongly connected to the future riverfront parks as it will become a new destination that attracts new foot traffic to the Falls. When a bike/walking/hiking path is developed to connect Chicopee, Holyoke, and Amherst, it too should be connected with the Riverfront Park.
- The creation of an Economic Development Committee for the Falls can help guide the vision for this area. This committee can help identify existing and future target areas for economic development and seek to attract new developers to the area.
- While architectural diversity is highly valued, development immediately adjacent to a highly valued landmark or historical place should complement the existing character of that place in order to help preserve the historic character of the Falls.
- A design review process should encourage and provide assistance with on-site improvements to pedestrian facilities, landscaping, and aesthetics.

Some of the measures above have been implemented. The proposal put forth by this Article would facilitate development consistent with the above considerations including a design review process for developments utilizing the Smart Growth District, ensuring that development under the Smart Growth District complements the existing and historical character of the area, and promotes mixed-used development along the principal roadways.

The Housing Chapter of the 2010 Master Plan would also be furthered by adoption of this Smart Growth District. A sustainable approach to development and a mixture of housing types across all markets is recommended in this chapter (Housing Objective 2-1, Housing Goal H-5, for examples):

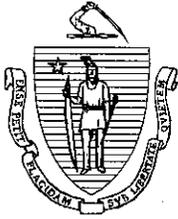
Housing Objective: 2-1: Housing developments with diversity of prices and types.
Housing Goal H-5: Sustainable housing development.

Relationship to Redevelopment Authority Planning

The Redevelopment Authority is currently working on their proposed Redevelopment Plan for the South Hadley Falls area. This proposed Smart Growth District will be complementary to the efforts of the Redevelopment Authority as it will provide regulatory tools and incentives to achieve the Redevelopment Plan's goals and objectives. The Redevelopment Authority endorsed the Town's application for the Preliminary Determination of Eligibility.

PUBLIC HEARING: The Planning Board held a public hearing on this amendment on October 19, 2015 (however, due to a defective notice, **a new public hearing is to be held on November 9, 2015**). Three persons attended the October 19th public hearing. Questions raised in the public hearing related to the rationale for the boundaries and the fact that one or more buildings appear to be divided by the boundary. These matters are discussed in the Report for Article 13.

RECOMMENDATION: The Planning Board, at their October 19, 2015 meeting, unanimously voted to proceed to the November 9th public hearing and the Special Town Meeting with this article. They will consider their final recommendation following the November 9, 2015 public hearing.



Commonwealth of Massachusetts
**DEPARTMENT OF HOUSING &
COMMUNITY DEVELOPMENT**

Charles D. Baker, Governor ♦ Karyn E. Polito, Lt. Governor ♦ Chrystal Komegay, Undersecretary

September 17, 2015

Michael Sullivan
Town Administrator
Town of South Hadley
116 Main St., Rm. 109
South Hadley, MA 01075

RE: South Hadley Falls Smart Growth Zoning Overlay District – Preliminary Determination of Eligibility

Dear Mr. Sullivan:

I am writing regarding the application for a preliminary determination of eligibility pursuant to MGL, Chapter 40R and 760 CMR 59.00 that was submitted by the Town of South Hadley (Town) to the Department of Housing and Community Development (DHCD) for the proposed South Hadley Smart Growth Zoning Overlay District (District). I am pleased to inform you that DHCD has completed its review and determined that the proposed District satisfies the requirements of the referenced statute and regulations.

Based on our review of the initial application and supplemental information received, including documentation relative to parcels identified as Underutilized Land and adjustments to the Smart Growth Zoning, the proposed District would allow for 320 Incentive Units to be developed pursuant to the corresponding Smart Growth Zoning. After DHCD receives evidence of both local adoption of the Smart Growth Zoning and corresponding approval from the Attorney General, the Department, upon request, can issue a Letter of Approval pursuant to 760 CMR 59.05(4). Upon issuance of such Letter of Approval, the Town will be entitled to a \$350,000 Zoning Incentive Payment and can begin to approve individual development projects pursuant to the new Smart Growth Zoning.

Pursuant to 760 CMR 59.05, DHCD issues this Letter of Eligibility subject to the following:

1. Unless otherwise approved in writing by the Department, final approval by DHCD is only assured to the extent the Town adopts the version of the Smart Growth Zoning that is enclosed and herein deemed eligible. Absent DHCD's approval of an extension of the eligibility period, adoption of the Smart Growth Zoning must occur by September 17, 2018. After adoption of the Smart Growth Zoning, the Town must submit proof of adoption to DHCD and receive a subsequent Letter of Approval prior to implementing the Smart Growth Zoning. Proof of adoption requires the submission of the following information:

- a) a copy of the Smart Growth Zoning adopted by Town Meeting and certified by the Town Clerk;
- b) a copy of the amended Zoning Map adopted by Town Meeting and certified by the Town Clerk;

- c) a copy of the Attorney General's letter approving the Smart Growth Zoning;
- d) if there were any changes to the enclosed version of Smart Growth Zoning between our approval in this preliminary determination of eligibility and adoption by Town Meeting, an annotated version of the Smart Growth Zoning must be submitted that clearly indicates and explains each change; and
- e) a certification by the Town Clerk that the Smart Growth Zoning has been published and posted pursuant to applicable law.
2. If there are substantial changes to the enclosed version of the Smart Growth Zoning in the course of local adoption and prior to DHCD's Final Approval, DHCD may treat such submission as an amendment to the application and will notify the Town of its decision to do so in writing. DHCD must confirm its final approval within 60 days of receipt of such submission provided the amended application satisfies all the approval criteria set forth in 760 CMR 59.04(1).
3. Beyond the rights afforded to property owners under the existing or underlying zoning, there is no local rule, regulation, ordinance or agreement that would inhibit the ability to develop a minimum of 383 Future Zoned Units in the District. There is no agreement that regulates the development of the Future Zoned Units in a manner contrary to 40R, such as limiting development within the District to one type of residential occupancy or another (e.g., homeownership rather than rental).
4. DHCD must approve, prior to their implementation, any associated rules, regulations and amendments adopted by the Plan Approval Authority. Such rules, regulations or amendments, if approved by DHCD, must also be filed with the Town Clerk.
5. The applicable Design Standards for the District are those herein approved and enclosed with this letter.

We commend the Town in this initiative to encourage Smart Growth. If you have any questions, please do not hesitate to contact Bill Reyelt at 617.573.1355 or William.Reyelt@state.ma.us.

Sincerely,



Chrystal Kornegay
Undersecretary

cc: Richard Harris, Town Planner, South Hadley
Larry Smith, Senior Planner, PVPC

SOUTH HADLEY FALLS

(9-16-15)

SECTION 7. SUPPLEMENTAL DISTRICT REGULATIONS

(B) 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(B), 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(B) 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(B)(10.)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(B)(10.) of this Article.

Affordable Rental Unit - A Dwelling Unit required to be rented to an Eligible Household per the requirements of Section 7(B)(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(B)(5.). A Use that is not prohibited under Section 7(B)(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 31st 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(B)(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(B)(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(B):

- 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(B), 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(B). 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(B)(5.) and subject to all provisions of this Section 7(B).

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(B), 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(B).

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(B).

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

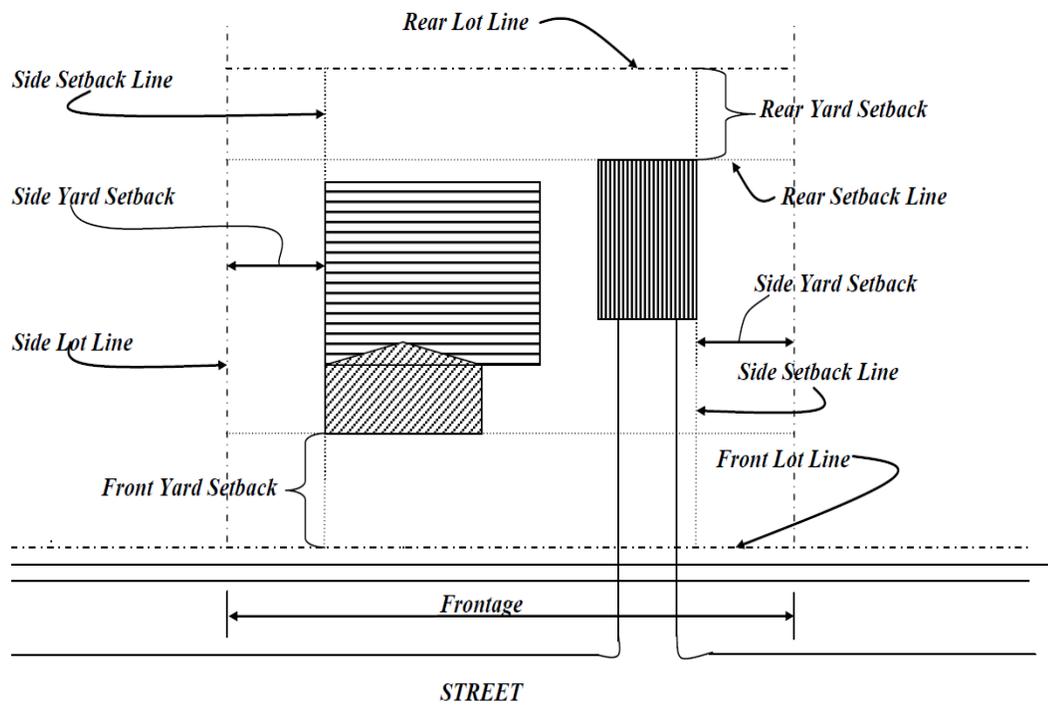
Restaurant - A commercial establishment in which the primary activity consists of the preparation and serving of food for consumption on the premises or as take-out, including a bar or pub or other establishment that sells food and alcoholic beverages for on-premises consumption, excluding catering businesses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



Street - A way, whether public or private, set aside for the passage of persons, animals or vehicles, and which is: (1) a public way accepted by the Town or a way which the Town Clerk certifies is maintained and used as a public way; or (2) a way shown on a plan approved and endorsed by the Planning Board in accordance with Chapter 41 of the Mass. General Laws (Subdivision Control Law); or (3) a way in

existence when said Subdivision Control Law became effective in South Hadley having, in the opinion of the Planning Board, sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby, and having sufficient and adequate municipal services to serve such land and the buildings erected or to be erected thereon.

Structure - A combination of materials assembled at a fixed location to give support or shelter, such as a building, framework, retaining wall, tent, reviewing stand, platform, bin, tower, fence, sign, pole, mast, or the like. The word “structure” shall be construed, where the context allows, as though followed by the words “or part or parts thereof.”

Smart Growth District - An Overlay Zoning District adopted pursuant to Massachusetts General Law Chapter 40R, in accordance with the procedures for 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(B)(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.

Dimensional Requirement	
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(B)(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(B)(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(B)(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(B)(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(B)(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, this is not required 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(B)(10);
 - Development Project plans that demonstrate compliance with the design and construction standards of Section 7(B)(10)(c); and
 - A form of Affordable Housing Restriction that satisfies the requirements of Section 7(B)(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 require a majority vote of the board's members and 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:
 - a. The applicant has not submitted the required fees and information as set forth in the SHFSGD Administrative Regulations; or
 - b. 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
 - c. 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(B)(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.

Approved by DHCD 09-16-15

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