

CHAPTER 40R LOCAL ZONING BYLAW GUIDANCE DOCUMENT

OVERVIEW

This document has been developed by the Executive Office of Housing and Livable Communities (EOHLC, or the Secretariat) to assist communities in drafting zoning bylaws/ordinances in accordance with M.G.L. Chapter 40R, the Smart Growth Zoning Overlay District Act (Chapter 40R or the Act). EOHLC has adopted regulations, 760 CMR 59.00 (the 40R Regulations), that expand upon the requirements of the Act for the submission of applications and the approval of Smart Growth Zoning Overlay Districts under the Act. For any capitalized terms not defined in this document, see the meaning given in the 40R Regulations.

Chapter 40R encourages communities to create dense residential or mixed-use Smart Growth Zoning Districts (SGZD), including a substantial percentage of affordable housing units, to be located in Substantial Transit Access Areas, in Areas of Concentrated Development such as existing city and town centers, and in Other Highly Suitable Locations. Projects must be developable under the community's Smart Growth Zoning (SGZ), adopted under Chapter 40R, either purely as-of-right or through an as-of-right plan review process as provided for in corresponding definition contained in the sample bylaw/ordinance below. Upon state review and approval of a local overlay district and subject to any necessary conditions, communities become eligible for payments administered by EOHLC, as well as other financial incentives.

EOHLC has developed a sample zoning bylaw/ordinance, with accompanying comments, that addresses the full range of issues that must be included in a community's Smart Growth Zoning. A community is not necessarily required to use the format or specific language of the sample bylaw/ordinance in its entirety; however, the sample zoning and accompanying commentary are a part of the program guidelines, and there are certain portions, generally highlighted in the comments, where EOHLC will require either these specific provisions or language that it deems of substantially equivalent effect). ***Generally speaking, the further the draft bylaw/ordinance deviates from these standard provisions, the longer it will take EOHLC to review. All applications must include a red-lined draft of the Smart Growth Zoning against EOHLC's template in MS Word format.*** Here is an overview of the sample bylaw/ordinance:

Section A: General Regulations that apply to all Smart Growth Zoning Districts

A.1 and A.2: Purpose and Definitions

The sample bylaw/ordinance recommends referencing Chapter 40R and its smart growth goals in Section 1, as well as other applicable local purposes. Section 2 contains specific definitions relating to the sample text; other definitions should be included as necessary. Note that under the 40R Regulations, the Smart Growth Zoning Districts must be an all-inclusive, separate section of the zoning ordinance or bylaw.

A.3: Applicability (Scope & Authority)

The sample bylaw/ordinance contains provisions clarifying the physical scope of any overlay district and any sub-districts therein, and the relationship of the Smart Growth Zoning to underlying provisions of the local zoning bylaw/ordinance. The sample bylaw/ordinance reflects

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Chapter 40R in stating that a developer/applicant may either develop a Project in accordance with the requirements of the Smart Growth Zoning, or in accordance with the requirements of the regulations for use, dimension, and all other provisions of the Zoning Bylaw/Ordinance governing the underlying zoning district(s).

A.4: Permitted Uses - General

The sample bylaw/ordinance contains provisions for the different types of residential uses that a community may choose to permit within a District: single-family, two- and three-family, and/or multi-family (defined under 40R as a structure with four or more residential units). In addition, a community may elect to allow Mixed-use Development Projects within a District. The sample bylaw/ordinance also provides for parking and other accessory uses.

A.6: Affordability

Chapter 40R requires that under the Smart Growth Zoning, at least 20% of all units constructed within Projects of more than 13 units shall be Affordable. The Act also requires mechanisms to ensure that at least 20% of the total number of units constructed in any respective Districts will be Affordable, and it requires provisions to ensure effective monitoring and enforcement. EOHLC has developed detailed language in Section 6 of the sample bylaw/ordinance to address these statutory provisions; it will require the Smart Growth Zoning to contain these provisions, or language that it determines to be of substantially equivalent effect.

A.7 and A.8: Dimensional, Density, and Parking Requirements - General

The sample bylaw/ordinance includes these sections, while leaving the actual physical requirements within any Districts (and any sub-districts) to be defined by each community. A key provision in this area that Chapter 40R imposes is minimum allowable as-of-right residential densities: the SGZ must allow at least 8 units per acre for single-family residential use; at least 12 units per acre for 2- and/or 3-family residential use; and at least 20 units per acre for multi-family residential use. The Smart Growth Zoning may provide for different sub-districts with different allowable uses and densities in each, so long as each sub-district meets the minimum density standards of the Act. Note that there are exceptions for sub-districts that do not contain any land/parcel that qualifies as Developable Land, including Underutilized Land.

A.9 through A.12: Plan Approval Process

A community may elect to subject some or all Projects within a District to a Plan Approval process. Chapter 40R and the Regulations spell out detailed procedural and substantive requirements for the Plan Approval process, which are reflected in these sections of the sample bylaw. Therefore, EOHLC will require the Smart Growth Zoning to contain these provisions, or language deemed to be of substantially equivalent effect. Among other related issues, the sample bylaw addresses the phasing and segmenting of Projects and allows the Plan Approval Authority (PAA) to issue waivers from dimensional and other requirements (but not Affordability).

A.13: Design Standards - General

As part of the Plan Approval process, Chapter 40R allows the PAA to apply Design Standards, to ensure that a Project is complementary to adjacent buildings and structures and shall provide for

high density quality development consistent with design features traditionally found in densely settled areas of the community. The Design Standards are subject to EOHLC's review and approval; EOHLC may disallow a design standard as unduly restrictive if it would add unreasonable costs or Unreasonably Impair the economic feasibility of Projects within the District or if the standard is not sufficiently clear such that it conflicts with the requirement that the SGZ be as of right.

A.14: Severability

B. Establishment and Delineation of the Smart Growth Overlay Districts

B.1: Establishment & Delineation - (District-Specific)

B.2: Permitted Uses - (District-Specific)

B.3: Dimensional & Density Requirements – (District-Specific)

B.4: Parking Requirements - (District-Specific)

B.5: Design Standards - (District-Specific)

SAMPLE ZONING ORDINANCE (WITH COMMENTS)

SECTION [17.29]: SMART GROWTH OVERLAY DISTRICTS (SGODs)

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

1. PURPOSE

The purpose of this Section [17.29] is to establish Green Street and Shirley Avenue Smart Growth Overlay Districts, to encourage smart growth in accordance with the purposes of G. L. Chapter 40R and to the extent the following other purposes are not in conflict with the Governing Laws;

[add other objectives as applicable]

2. DEFINITIONS

For purposes of this Section [17.29], the following definitions shall apply. All capitalized terms shall be defined in accordance with the definitions established under the Governing Laws or Section 2.0, or as set forth in the PAA Regulations. With respect to their application to this Section [17.29], to the extent that there is any conflict between the definitions or terms set forth in, or otherwise regulated by, the Governing Laws and those defined or used in this Section [17.29], inclusive of any applicable Design Standards, PAA Regulations, or any other applicable associated local zoning requirement (e.g., zoning requirement contained in another section of the Zoning Ordinance that is nonetheless incorporated by reference), the terms of the Governing Laws shall govern.

Affordable Homeownership Unit - an Affordable Housing unit required to be sold to an Eligible Household.

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

Apartment House - means a dwelling for more than two families under one roof, or for one or more families above a first floor used for nonresidential purposes, including structures or buildings owned in condominium ownership under General Laws, Chapter 183A

Affordable Housing Restriction - a deed restriction of Affordable Housing meeting the statutory requirements in G.L. Chapter 184, Section 31 and the requirements of Section 6.5 of this Ordinance.

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

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

As-of-right - a use allowed under Section 5.0 without recourse to a special permit, variance, zoning amendment, or other form of zoning relief other than waivers issued hereunder Section 11.3. A Project that requires Plan Approval by the PAA pursuant to Sections 9.0 through 13.0 shall be considered an as-of-right Project, subject to review and approval by EOHLC of any Municipal 40R regulations, guidelines, application forms, or other requirements applicable to review of Projects by the Plan Approval Authority under the 40R Zoning and 760 CMR 59.00..

Bank and Financial Institution - is an establishment that provides **retail** banking services, mortgage lending, or similar financial services to individuals and businesses. This use type also includes record storage and data processing and shall also include free standing automated teller machines (ATM).

EOHLC or Secretariat - the Massachusetts Executive Office of Housing and Livable Communities, or any successor agency.

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

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

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

Health Club - means a commercial business establishment that provides facilities for individual physical health activities, including, but not limited to the use of exercise equipment, including free weights, exercise machines, treadmills, stationary bicycles, and other aerobic equipment, personal trainers, yoga classes, aerobic exercise classes, running and jogging, saunas, steam rooms, showers and lockers. Such establishments are considered commercial establishments operating as a business whether open to members and their guests on a membership basis only or open to the public at large paying a daily admission fee.

Mixed-Use Development Project – a Project containing a mix of one or more residential uses and one or more non-residential uses, as allowed in Section 5.2, and subject to all applicable provisions of this Section [17.29].

Monitoring Agent or Administering Agent – the local housing authority or other qualified housing entity designated by the municipality, chief executive, pursuant to Section 6.2, to review and implement the Affordability requirements affecting Projects under Section 6.0.

PAA Regulations – the rules and regulations of the PAA adopted pursuant to Section 17.030.

Plan Approval - standards and procedures which [certain categories of] Projects in the SGOD must meet pursuant to Sections 17.010 through 17.110 and the Governing Laws.

Plan Approval Authority (PAA) - The local approval authority authorized under Section 17.030 to conduct the Plan Approval process for purposes of reviewing Project applications and issuing Plan Approval decisions within the SGOD.

Project - a Residential Project or Mixed-use Development Project undertaken within the SGOD in accordance with the requirements of this Section [17.29].

Recreation, Gainful Business - means commercial recreational activities such as amusement centers, game arcades or similar activities. For the purposes of this title, this definition does not pertain to such activities as health clubs, physical fitness, racetracks, arenas and similar athletic facilities.

Residential Project - a Project that consists solely of residential use and any parking and accessory uses as may be permitted/required and further defined in Section 5.1.

Restaurant - means an establishment where the primary business is the service, by a waiter or waitress of food and beverages to be consumed exclusively at tables or at a counter on the premises.

SGOD – the Smart Growth Overlay District established in accordance with this Section [17.29].

Single-Family Dwelling - means a detached building used for, or occupied exclusively by, one dwelling unit.

Two-Family Dwelling - means a building used for, or occupied by, two dwelling units.

Zoning Ordinance - the Zoning Ordinance of the City of Revere

[add other definitions as required, either here or in the PAA Regulations]

3. APPLICABILITY OF SGODs – SCOPE AND AUTHORITY

3.1 Applicability of SGODs. An Applicant may seek development of a Project located within the SGOD in accordance with the provisions of the Governing Laws and this Section [17.29], including a request for Plan Approval by the PAA, if necessary. In such case, notwithstanding anything to the contrary in the Zoning Ordinance, such application shall not be subject to any other provisions of the Zoning Ordinance, including limitations upon the issuance of building permits for residential uses related to a rate of development or phased growth limitation or to a local moratorium on the issuance of such permits, or to other building permit or dwelling unit limitations. To the extent that there is any conflict between the Governing Laws and this Section [17.29], inclusive of the Design Standards, the PAA Regulations, and any applicable associated local zoning requirement (e.g., zoning requirement contained in another section of the Zoning Ordinance that is nonetheless incorporated by reference), the Governing Laws shall govern.

3.2 Underlying Zoning. The SGOD is an overlay district superimposed on all underlying zoning districts. The regulations for use, dimension, and all other provisions of the Zoning Ordinance governing the underlying zoning district(s) shall remain in full force, except for those Projects undergoing development pursuant to this Section [17.29]. Within the boundaries of the SGOD, a developer may elect either to develop a Project in accordance with the requirements of the Smart Growth Zoning, or to develop a project in accordance with requirements of the regulations for use, dimension, and all other provisions of the Zoning Ordinance governing the underlying zoning district(s).

3.3 Administration, Enforcement, and Appeals. The provisions of this Section [17.29] shall be administered by the Building Commissioner, except as otherwise provided herein. Any legal appeal arising out of a Plan Approval decision by the PAA under Sections 9 through 13 shall be governed by the applicable provisions of G. L. Chapter 40R. Any other request for enforcement or appeal arising under this Section [17.29] shall be governed by the applicable provisions of G. L. Chapter 40A..

5. PERMITTED USES - GENERAL

The following uses are permitted As-of-right for Projects within SGODs unless otherwise specified under the corresponding section of the district-specific requirements.



5.1 Residential Projects. A Residential Project within the SGOD may include:

- a) [Single-family, two- and three-family, and/or Multi-family] Residential Use(s).
- b) Parking accessory to any of the above permitted uses, including surface, garage-under, and structured parking (e.g., parking garages); and
- c) Accessory uses customarily incidental to any of the above permitted uses.

6. HOUSING AND HOUSING AFFORDABILITY

6.1 Number of Affordable Housing Units. For all Projects [containing at least 8 residential units], not less than twenty percent (20%) of housing units constructed shall be Affordable Housing.

For the purpose of calculating the number of units of Affordable Housing required within a Project, any fractional unit shall be deemed to constitute a whole unit. [A Project shall not be segmented to evade the Affordability threshold set forth above – this provision is only necessary if certain Projects (those with 8 or fewer units as may be specified in the SGZ) are exempt from the Affordability requirement.]



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

- 1. prices of Affordable Homeownership Units are properly computed; rental amounts of Affordable Rental Units are properly computed;
- 2. income eligibility of households applying for Affordable Housing is properly and reliably determined;
- 3. the housing marketing and resident selection plan conform to all requirements, have been approved by EOHLC specifically with regard to conformance with M.G.L. c.40R and 760 CMR 59.00, and are properly administered;

4. sales and rentals are made to Eligible Households chosen in accordance with the housing marketing and resident selection plan (a.k.a., Affirmative Fair Housing Marketing Plan (AFHMP)) with appropriate unit size for each household being properly determined and proper preference being given; and
5. An Affordable Housing Restriction (AHR) meeting the requirements of this section is approved by EOHLC specifically regarding conformance with M.G.L. c.40R and 760 CMR. 59.00, recorded with the proper registry of deeds.

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

- 1) evidence that the Project complies with the cost and eligibility requirements of Section 6.4:
- 2) Project plans that demonstrate compliance with the requirements of Section 6.5; and
- 3) a form of Affordable Housing Restriction that satisfies the requirements of Section 6.6.

These documents in combination, to be submitted with an application for Plan Approval (or, for Projects not requiring Plan Approval, prior to submission of any application for a Building Permit), shall include details about construction related to the provision, within the development, of units that are accessible to the individuals with disabilities and appropriate for diverse populations, including households with children, other households, individuals, households including individuals with disabilities, and the elderly.

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

1. Affordable Housing required to be offered for rent or sale shall be rented or sold to and occupied only by Eligible Households.
2. For an Affordable Rental Unit, the monthly rent payment, including applicable utility allowances, shall not exceed 30 percent of the maximum monthly income permissible for an Eligible Household, assuming a family size equal to the number of bedrooms in the unit plus one, unless another affordable housing program methodology for calculating rent limits, as approved by EOHLC, applies.
3. For an Affordable Homeownership Unit the monthly housing payment, including mortgage principal and interest, private mortgage insurance, property taxes, condominium and/or homeowner's association fees, and insurance, shall not exceed 30 percent of the maximum monthly income

permissible for an Eligible Household, assuming a family size equal to the number of bedrooms in the unit plus one, unless another affordable housing program methodology for calculating rent limits, as approved by EOHLC, applies.

Prior to the granting of any building permit for a Project, the Applicant must demonstrate, to the satisfaction of the Monitoring Agent, that the method by which such affordable rents or affordable purchase prices are computed shall be consistent with state or federal guidelines for Affordability applicable to Revere.

6.5 Design and Construction. Units of Affordable Housing shall be finished housing units. With respect to the minimum number of units in a given Project that are required to be Affordable Housing under Section 17.29] and the Governing Laws, such units shall be equitably integrated and proportionately dispersed throughout the residential portion of the Project of which they are part, across all residential buildings, floors, distinct unit types, and with respect to the gross floor area devoted to residential units, in accordance with the Affordable Housing Restriction and the Affirmative Fair Housing Marketing and Resident Selection Plan, as approved by EOHLC. The Affordable Housing units shall be comparable in initial construction quality, size, amenities, and exterior design to the other housing units in the Project. Unless expressly required otherwise under one or more applicable state or federal housing subsidy programs, the bedroom-per-unit average for the Affordable Housing must be equal to or greater than the bedroom-per-unit average for the unrestricted/market-rate units.

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

1. specification of the term of the Affordable Housing Restriction which shall be stipulated in the Plan Approval decision but in no case be less than thirty-year period.
2. the name and address of the Monitoring Agent with a designation of its power to monitor and enforce the Affordable Housing Restriction.
3. a description of the Affordable Homeownership Unit(s), if any, by address and number of bedrooms; and a description of the overall quantity, initial unit designations and number of bedrooms and number of bedroom types of Affordable Rental Units in a Project or portion of a Project which are rental. Such restriction shall apply individually to the specifically identified Affordable Homeownership Unit and shall apply to a percentage of rental units of a rental Project or the rental portion of a Project with the initially designated Affordable Rental Units identified in, and able to float subject to specific approval by EOHLC in accordance with, the corresponding Affirmative Fair Housing Marketing Plan (AFHMP) and EOHLC's AFHMP guidelines.

4. reference to an Affirmative Fair Housing Marketing and Resident Selection Plan, to which the Affordable Housing is subject, and which includes an affirmative fair housing marketing program, including public notice and a fair resident selection process. Such plan shall be consistent with EOHLC guidance and approved by EOHLC. Consistent with EOHLC guidance, such plan shall include a preference based on need for the number of bedrooms in a unit and a preference based on need for the accessibility features of a unit where applicable and may only provide for additional preferences in resident selection to the extent such preferences are also consistent with applicable law and approved by EOHLC.
5. a requirement that buyers or tenants will be selected at the initial sale or initial rental and upon all subsequent sales and rentals from a list of Eligible Households compiled in accordance with the housing marketing and selection plan;
6. reference to the formula pursuant to which the maximum rent of an Affordable Rental Unit or the maximum resale price of an Affordable Homeownership Unit will be set;
7. a requirement that only an Eligible Household may reside in Affordable Housing and that notice of any lease of any Affordable Rental Unit shall be given to the Monitoring Agent;
8. provision for effective monitoring and enforcement of the terms and provisions of the Affordable Housing Restriction by the Monitoring Agent;
9. provision that the AHR on an Affordable Homeownership Unit shall run in favor of the Monitoring Agent and/or the municipality, in a form approved by municipal counsel, and shall limit initial sale and re-sale to and occupancy by an Eligible Household;
10. provision that the AHR on Affordable Rental Units in a rental Project or rental portion of a Project shall run with the rental Project or rental portion of a Project and shall run in favor of the Monitoring Agent and/or the municipality, in a form approved by municipal counsel, and shall limit rental and occupancy to an Eligible Household;
11. provision that the owner[s] or manager[s] of Affordable Rental Unit[s] shall file an annual compliance report with the Monitoring Agent, in a form specified by that agent certifying compliance with the Affordability provisions of this Ordinance and containing such other information as may be reasonably requested in order to ensure Affordability; and
12. a requirement that residents in Affordable Housing provide such information as the Monitoring Agent may reasonably request in order to ensure Affordability.

6.7 Costs of Affirmative Fair Housing Marketing and Resident Selection Plan. The Affirmative Fair Housing Marketing and Resident Selection Plan and/or any associated Monitoring Services Agreement may make provision for payment by the Project Applicant of reasonable costs to the Monitoring Agent to monitor and enforce compliance with Affordability requirements consistent with the Affordable Housing Restriction and otherwise fulfill the responsibilities contained in Section 6.2.

6.8 Age Restrictions. Nothing in this Section [17.29] shall permit the imposition of restrictions on age upon Projects unless proposed or agreed to voluntarily by the Applicant. However, in its review of a submission under Section 6.3 for a given SGOD, the PAA may allow a specific Project, designated exclusively for the elderly, persons with disabilities, or for assisted living, provided that any such Project shall be in compliance with all applicable federal, state and local fair housing laws and regulations and not less than twenty-five percent (25%) of the housing units in such a restricted Project shall be restricted as Affordable Housing units.

6.9 Phasing. For any Project that is approved and developed in phases in accordance with Section 9.4, the percentage of Affordable units in each phase shall be at least equal to the minimum percentage of Affordable Housing required under Section 6.1 or 6.8, as applicable. Where the percentage of Affordable Housing is not uniform across all phases, the unit dispersal and bedroom proportionality requirements under Section 6.5 shall be applied proportionately to the Affordable Housing provided for in each respective phase.

6.10 No Waiver. Notwithstanding anything to the contrary herein, the Affordability provisions in this Section 6.0 shall not be waived unless expressly approved in writing by EOHLC under the 40R Smart Growth Zoning Program pursuant to the Governing Laws, in order to eliminate conflict with an associated state or federal housing financing program and/or at the request of the Plan Approval Authority.

7. DIMENSIONAL AND DENSITY REQUIREMENTS - GENERAL

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

Dimensional Requirement	
Maximum Building Height	60 feet
Minimum Lot Frontage	100 feet

7.2 **Dimensional Waivers in Substantially Developed Sub-district.** The PAA may, in order to encourage the development of infill housing units on undeveloped lots within a Substantially Developed Sub-district, grant a waiver to the dimensional standards of Section 7.1, in accordance with Section 11.3.

8. **PARKING REQUIREMENTS - GENERAL**

The parking requirements applicable for Projects within SGODs are as follows.

(a) Off-street parking and loading shall be provided in accordance with the schedule set out in this article and as otherwise required elsewhere in this title 17.28.010:

USE	Number of Parking Spaces	Minimum Loading Bay	Minimum Loading Space
Residential Units:			
Single Family	2	0	0
Two Family	4	0	0

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

8.1 **Visitor Parking Spaces**

The PAA may allow for additional visitor parking spaces beyond the .25 spaces maximum spaces per unit if deemed appropriate given the design, layout and density of the proposed residential or other development. The PAA may allow for a decrease in any required parking as provided in Sections 8.2 and 8.3 below.

8.2 **Shared Parking.** Notwithstanding anything to the contrary herein, the use of shared parking to fulfill parking demands noted above that occur at different times of day is strongly encouraged. Any minimum parking requirements above may be reduced by the PAA through the Plan Approval process (or, for Projects not requiring Plan Approval, prior to submission of any application for a Building Permit), if the Applicant can demonstrate that shared spaces will meet parking demands by using accepted methodologies (e.g. the Urban Land Institute Shared Parking Report, ITE Shared Parking Guidelines, or

other approved studies).

8.3 Reduction in parking requirements. Notwithstanding anything to the contrary herein, any minimum required amount of parking may be reduced by the PAA through the Plan Approval process (or, for Projects not requiring Plan Approval, prior to submission of any application for a Building Permit), if the Applicant can demonstrate that the lesser amount of parking will not cause excessive congestion, endanger public safety, or that lesser amount of parking will provide positive environmental or other benefits, taking into consideration:

- a) the availability of surplus off-street parking in the vicinity of the use being served and/or the proximity of a bus stop or transit station;
- b) the availability of public or commercial parking facilities in the vicinity of the use being served;
- c) shared use of off-street parking spaces serving other uses having peak user demands at different times;
- d) To the extent consistent with 760 CMR 59.04(1)(g) and 760 CMR 59.04(1)(i)1., age or other occupancy restrictions which are likely to result in a lower level of auto usage;
- e) impact of the parking requirement on the physical environment of the affected lot or the adjacent lots including reduction in green space, destruction of significant existing trees and other vegetation, destruction of existing dwelling units, or loss of pedestrian amenities along public ways; and

Any applicable transportation demand management strategies that will be integrated into the Project or such other factors as may be considered by the PAA.

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

9. PLAN APPROVAL OF PROJECTS: GENERAL PROVISIONS

9.1 Plan Approval. An application for Plan Approval shall be reviewed by the PAA for consistency with the purpose and intent of Sections 17.17.010 through 17.17.110. Such Plan Approval process shall be construed as an As-of-right review and approval process as required by and in accordance with the Governing Laws. The following categories of Projects shall be subject to the Plan Approval process:

- a) Any Residential Project containing at least 8 residential units;
- b) Any Mixed-use Development Project;
- d) Any Project seeking a waiver.

9.2 Plan Approval Authority (PAA). The Revere Site Plan Review Committee, consistent with G.L. Chapter 40R and 760 CMR 59.00, shall be the Plan Approval Authority (the “PAA”), and it is authorized to conduct the Plan Approval process for purposes of reviewing Project applications and issuing Plan Approval decisions within any SGOD as may be established in Section B below.

9.3 PAA Regulations. The Plan Approval Authority may adopt administrative rules and regulations relative to Plan Approval. Such rules and regulations and any amendments thereof must be approved by the Executive Office of Housing and Livable Communities.

9.4 Project Phasing. An Applicant may propose, in a Plan Approval submission, that a Project be developed in phases, provided that the submission shows the full buildout of the Project and all associated impacts as of the completion of the final phase, and subject to the approval of the PAA. Any phased Project shall comply with the provisions of Section 6.9.

10. PLAN APPROVAL PROCEDURES

10.1 Preapplication. Prior to the submittal of a Plan Approval submission, a “Concept Plan” may be submitted to help guide the development of the definitive submission for Project buildout and individual elements thereof. If submitted, such Concept Plan should reflect the following:

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

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

10.2 Required Submittals. An application for Plan Approval shall be submitted to the PAA on the form provided by the PAA and approved by EOHLC, [along with application fee(s)] which shall be as set forth in the PAA Regulations. The application shall be accompanied by such plans and documents as may be required and set forth in the PAA Regulations. For any Project that is subject to the Affordability requirements of Section 6.0, the application shall be accompanied by all materials required under Section 6.3. All site plans shall be prepared by a certified architect, landscape architect, and/or a civil engineer registered in the Commonwealth of Massachusetts. All

landscape plans shall be prepared by a certified landscape architect registered in the Commonwealth of Massachusetts. All building elevations shall be prepared by a certified architect registered in the Commonwealth of Massachusetts. All plans shall be signed and stamped, and drawings prepared at a scale of [one inch equals forty feet (1"=40') or larger], or at a scale as approved in advance by the PAA.

10.3 Filing. An Applicant for Plan Approval shall file the required number of copies of the application form and the other required submittals as set forth in the PAA Regulations with the City Clerk and a copy of the application including the date of filing certified by the City Clerk shall be filed forthwith with the PAA.

10.4 Circulation to Other Boards. Upon receipt of the application, the PAA shall immediately provide a copy of the application materials to the Planning Board, City Council, Board of Appeals, Board of Health, Conservation Commission, Fire Department, Police Department, Building Commissioner, Department of Public Works, Commissioner of Handicapped Affairs, the Monitoring Agent (if already identified, for any Project subject to the Affordability requirements of Section 6.0), and other municipal officers, agencies or boards for comment, and any such board, agency or officer shall provide any written comments within 30 days of its receipt of a copy of the plan and application for approval.

10.5 Hearing. The PAA shall hold a public hearing for which notice has been given as provided in Section 11 of G.L. Chapter 40A. The decision of the PAA shall be made, and a written notice of the decision filed with the City Clerk, within 120 days of the receipt of the application by the City Clerk. The required time limits for such action may be extended by written agreement between the Applicant and the PAA, with a copy of such agreement being filed in the office of the City Clerk. Failure of the PAA to take action within said 120 days or extended time, if applicable, shall be deemed to be an approval of the Plan Approval application.

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

11. PLAN APPROVAL DECISIONS

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11.1 Plan Approval. Plan Approval shall be granted by simple majority vote where the PAA finds that:

1. the Applicant has submitted the required fees and information as set forth in the PAA Regulations; and
2. the Project as described in the application meets the requirements and standards set forth in this Section 17.29 and the PAA Regulations, or a waiver has been granted therefrom; and
3. any extraordinary adverse potential impacts of the Project on nearby properties have been adequately mitigated.

For a Project subject to the Affordability requirements of Section 6.0, compliance with condition (2) above shall include written confirmation by the Monitoring Agent that all requirements of that Section have been satisfied. Any Plan Approval decision for a Project subject to the affordability restrictions of Section 6.0 shall specify the term of such affordability, which shall be no less than a thirty-year period. The PAA may attach conditions to the Plan Approval decision that are necessary to ensure substantial compliance with this Section 17.29, or to mitigate any extraordinary adverse potential impacts of the Project on nearby properties.

11.2 Plan Disapproval. A Plan Approval application may be disapproved only by simple majority vote where the PAA finds that:

1. the Applicant has not submitted the required fees and information as set forth in the Regulations; or
2. the Project as described in the application does not meet the requirements and standards set forth in this Section 17.29 and the PAA Regulations, or that a requested waiver therefrom has not been granted; or
3. it is not possible to adequately mitigate extraordinary adverse Project impacts on nearby properties by means of suitable conditions.

11.3 Waivers. Upon the request of the Applicant and subject to compliance with M.G.L. c. 40R, 760 CMR 59.00 and Section 6.10, the Plan Approval Authority may waive dimensional and other requirements of Section 17.29, including the Design Standards, in the interests of design flexibility and overall Project quality, and upon a finding of consistency of such variation with the overall purpose and objectives of the Smart Growth Zoning and corresponding SGOD, or if it finds that such waiver will allow the Project to achieve the density, affordability, mix of uses, and/or physical character allowable under this Section 17.29.

11.4 Project Phasing. The PAA, as a condition of any Plan Approval, may allow a Project to be phased at the request of the Applicant, or it may require a Project to be phased for the purpose of coordinating its development with the construction of Planned Infrastructure Improvements (as that term is defined under 760 CMR 59.00), or to mitigate any extraordinary adverse Project impacts on nearby properties. For Projects that are approved and developed in phases, unless otherwise explicitly approved in writing by EOHLIC in relation to the specific Project, the proportion of Affordable units in each phase shall be at least equal to the minimum percentage of Affordable Housing required under Section 6.1 or 6.8, as applicable.

11.5 Form of Decision. The PAA shall issue to the Applicant a copy of its decision containing the name and address of the owner, identifying the land affected, and the plans that were the subject of the decision, and certifying that a copy of the decision has been filed with the Revere City Clerk and that all plans referred to in the decision are on file with the PAA. If twenty (20) days have elapsed after the decision has been filed in the office of the Revere City Clerk without an appeal having been filed or if such appeal, having been filed, is dismissed or denied, the [City/Town] Clerk shall so certify on a copy of the decision. If a plan is approved by reason of the failure of the PAA to timely act, the City Clerk shall make such certification on a copy of the application. A copy of the decision or application bearing such certification shall be recorded in the registry of deeds for the county and district in which the land is located and indexed in the grantor index under the name of the owner of record or recorded and noted on the owner's certificate of title. The fee for recording or registering shall be paid by the Applicant.

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

12. CHANGE IN PLANS AFTER APPROVAL BY PAA

12.1 Minor Change. After Plan Approval, an Applicant may apply to make minor changes to a Project involving minor utility or building orientation adjustments, or minor adjustments to parking or other site details that do not affect the overall buildout or building envelope of the site, or provision of open space, number of housing units, or housing need or affordability features. Such minor changes must be submitted to the PAA on redlined prints of the approved plan, reflecting the proposed change, and on application forms provided by the

PAA. The PAA may authorize such changes at any regularly scheduled meeting, without the need to hold a public hearing. The PAA shall set forth any decision to approve or deny such minor change by motion and written decision and provide a copy to the Applicant for filing with the City Clerk.

12.2 Major Change. Those changes deemed by the PAA to constitute a major change to a Project because of the nature of the change in relation to the prior approved plan, or because such change cannot be appropriately characterized as a minor change as described above, shall be processed by the PAA as a new application for Plan Approval pursuant to Sections 17.010 - through 17.110.

13. DESIGN STANDARDS - GENERAL

13.1 Adoption of Design Standards. Any Project undergoing the Plan Approval process shall be subject to Design Standards [as set forth below in this Section 13.0 (“Design Standards”)] [or] [referenced in the ordinance but contained in a separate document].

13.2 Purpose. The Design Standards are adopted to ensure that the physical character of Projects within SGODs:

- 1) will be complementary to nearby buildings and structures;
- 2) will be consistent with the Comprehensive Housing Plan, an applicable master plan, an area specific plan, or any other plan document adopted by the City the specific version of which has been expressly approved by EOHLC as consistent with the Smart Growth Zoning and Governing Laws; and
- 3) will provide for high-density quality development consistent with the character of building types, streetscapes, and other community features traditionally found in densely settled areas of the City or in the region of the City

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

definition in order to make such standard or definition clear and understandable.

13.2. EOHLIC Approval. After adopting Design Standards, the PAA shall submit Design Standards to EOHLIC for approval. Design Standards shall not take effect until approved by EOHLIC and filed with the [City/Town] Clerk. In submitting proposed Design Standard for EOHLIC approval, the PAA shall also submit sufficient documentation clearly showing that the proposed Design Standards will not add unreasonable costs to Development Projects or unreasonably impair the economic feasibility of a Development Project. A letter from a developer, property owner or other qualified party indicating that the Design Standards will not add unreasonable costs or unreasonably impair the economic feasibility of a Development Project shall not necessarily constitute sufficient documentation. At its discretion, EOHLIC may disapprove Design Standards if it finds that the PAA has not adopted objective Design Standards or has not submitted such documentation.

13.3. Plan Approval. An application for Plan Approval that has been submitted to the Revere City] Clerk pursuant to this Section 17.29 shall not be subject to Design Standards that have not been approved by EOHLIC and filed with the Revere City Clerk.

14. SEVERABILITY.

If any provision of this Section 17.29 is found to be invalid by a court of competent jurisdiction, the remainder of Section 17.29 shall not be affected but shall remain in full force. The invalidity of any provision of this Section 17.29 shall not affect the validity of the remainder of the City's Zoning Ordinance.

B. Establishment and Delineation of the Smart Growth Overlay Districts

1. GREEN STREET SMART GROWTH OVERLAY DISTRICT

1.1 Establishment. The Green Street Smart Growth Overlay District hereinafter referred to as the "GSSGOD", is an overlay district having a land area of approximately 6.37 acres in size that is superimposed over the underlying zoning districts and is shown on the Zoning Map as set forth on the map entitled "Green Street] Smart Growth Overlay District dated ___, prepared by ___." This map is hereby made a part of the Zoning By-law/Ordinance and is on file in the Office of the City Clerk.

2. PERMITTED USES – (DISTRICT-SPECIFIC)

The following uses are permitted As-of-right for Projects within the Green Street Smart Growth Overlay District (GSSGOD)

2.1 Residential Projects. A Residential Project within the Green Street Smart Growth Overlay District may include:

- a) [Single-family, 2 and 3 family, and/or Multi-family] Residential Use(s);
- b) Parking accessory to any of the above permitted uses, including surface, garage-under, and structured parking (e.g., parking garages); and
- c) Accessory uses customarily incidental to any of the above permitted uses.

2.2 Mixed-use Development Projects. A Mixed-use Development Project within the Green Street Smart Growth Overlay District must include at least one residential use and one non-residential use from these respective use categories as permitted below and may further include parking and other accessory uses as additionally provided for:

- a) [Single-family, Two- and Three-family, and/or Multi-family] Residential Use(s), provided that the minimum allowable As-of-right density allowances for residential use specified in Section 7.1 shall apply to the residential portion of any Mixed-use Development Project;
- b) Any of the following Non-residential uses:

Office or Laboratory Uses (C):

General office Use or Building

Business Uses and Consumer Services (D):

Restaurant
General Retail Sales and Service
Neighborhood Retail and Sales and Service
Health Club

Industrial Uses (E):

Brew pub
Brewery/Distillery or Winery

- c) c) Parking accessory to any of the above permitted uses, including surface, garage-under, and structured parking (e.g., parking garages); and
- d) Accessory uses customarily incidental to any of the above permitted uses.

[Insert additional text if there are Sub-districts within the District, and Mixed-use Development Projects are allowed in some but not all of the Sub-districts.]

The total gross floor area devoted to residential uses within a Mixed-use Development Project shall be at least [>=/51%] of the total gross floor area of the Project.

- a) Until such time that EOHLC has confirmed receipt of copies of occupancy permits for [minimum # units corresponding to Zoning Incentive Payment] number of eligible Bonus Units permitted under the Smart Growth Zoning, the total gross floor area devoted to Non-residential uses on Developable or Underutilized Land and not contained within a Mixed-use Development Project shall not exceed [___%] of the total gross floor area allowed on Developable or Underutilized Land in the District.

3. DIMENSIONAL AND DENSITY REQUIREMENTS – (DISTRICT-SPECIFIC)

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

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Dimensional Requirement	
Minimum Front Setback*	20 feet
Interior Setback (between Buildings on same Lot)	15 feet
Minimum Lot Area Square Feet	10,000 Square Feet
Floor Area Ratio (FAR)	1.5

3.2 Dimensional Waivers in Substantially Developed Sub-district. In order to encourage the development of infill housing units on undeveloped lots within a Substantially Developed Sub-district, the PAA may grant a waiver to the dimensional standards of Section 7.1 and herein, in accordance with Section 11.3.

4. PARKING REQUIREMENTS – (DISTRICT-SPECIFIC)

The parking requirements applicable for Projects within the GSSGOD are as

follows.

USE	Number of Parking Spaces	Minimum Loading Bay	Minimum Loading Space
General Retail sales and service	1/200 GSF	0	0
Office and Institutional	1/400 GSF for professional office uses greater than 20,000 GSF. 1/500 for professional office uses 20,000 GSF and less	0	1
Residential Units:			
Single Family	2	0	0
Two Family	4	0	0
Apartments (1 Bedroom, 2 Bedrooms, 3 Bedrooms or more)	1.5, 1.75, 2	0	0
Office and Storage	1/250 GSF	(b)	1
Medical or Dental Office	1/200 GSF	0	1
Restaurant (non-fast-food)	1 Per 4 Seats	0	1
Health Club	1/150 GSF	NA	NA

2. THE SHIRLEY AVENUE SMART GROWTH OVERLAY DISTRICT

1.1 Establishment. The Shirley Avenue Smart Growth Overlay District hereinafter referred to as the “SASGOD”,” is an overlay district having a land area of approximately 66.78 acres in size that is superimposed over the underlying zoning districts and is shown on the Zoning Map as set forth on the map entitled Shirley Avenue Smart Growth Overlay District dated ____, prepared by ____.” This map is hereby made a part of the Zoning Ordinance and is on file in the Office of the City Clerk.

2. PERMITTED USES – (DISTRICT-SPECIFIC)

The following uses are permitted As-of-right for Projects within the Shirley Avenue Smart Growth Overlay District (SASGOD)

2.1 Residential Projects. A Residential Project within the Shirley Avenue Smart Growth Overlay District may include:

- a) Single-family, 2 and 3 family, and/or Multi-family] Residential Use(s);
- b) Parking accessory to any of the above permitted uses, including surface, garage-under, and structured parking (e.g., parking garages); and
- c) Accessory uses customarily incidental to any of the above permitted uses.

2.2 Mixed-use Development Projects. A Mixed-use Development Project within the Shirley Avenue Smart Growth Overlay District must include at least one residential use and one non-residential use from these respective use categories as permitted below and may further include parking and other accessory uses as additionally provided for:

- d) [Single-family, Two- and Three-family, and/or Multi-family] Residential Use(s), provided that the minimum allowable As-of-right density allowances for residential use specified in Section 7.1 shall apply to the residential portion of any Mixed-use Development Project;
- e) Any of the following Non-residential uses:

Business Uses and Consumer Services (D):

- Bank and Financial Institution
- Retail Greenhouse

- Professional Office
- Restaurant
- General Retail Sales and Service
- Neighborhood Retail and Sales and Service
- Theatre Meeting Hall
- Health Club
- Recreation, gainful business
- Urban Ground Level Yard Farm (Small, Medium, and Large)
- Urban Roof Level Yard Farm (Small medium and Large)
- Home/Yard Garden

Industrial Uses (E):

- Brew pub
- Brewery/Distillery or Winery

- c) Parking accessory to any of the above permitted uses, including surface, garage-under, and structured parking (e.g., parking garages); and
- d) Accessory uses customarily incidental to any of the above permitted uses.

The total gross floor area devoted to residential uses within a Mixed-use Development Project shall be at least [=>51%] of the total gross floor area of the Project.

- b) Until such time that EOHLC has confirmed receipt of copies of occupancy permits for [minimum # units corresponding to Zoning Incentive Payment] number of eligible Bonus Units permitted under the Smart Growth Zoning, the total gross floor area devoted to Non-residential uses on Developable or Underutilized Land and not contained within a Mixed-use Development Project shall not exceed [__%] of the total gross floor area allowed on Developable or Underutilized Land in the District.

3. DIMENSIONAL AND DENSITY REQUIREMENTS – (DISTRICT-SPECIFIC)

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

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Dimensional Requirement	
Minimum Front Setback*	0 feet
Interior Setback (between Buildings on same Lot)	15 feet
Minimum Lot Area Square Feet	5,000 Square Feet
Floor Area Ratio (FAR)	2

3.2 Dimensional Waivers in Substantially Developed Sub-district. In order to encourage the development of infill housing units on undeveloped lots within a Substantially Developed Sub-district, the PAA may grant a waiver to the dimensional standards of Section 7.1 and herein, in accordance with Section 11.3.

4. PARKING REQUIREMENTS – (DISTRICT-SPECIFIC)

PLEASE RED-LINE ALL CHANGES TO THE SMART GROWTH ZONING TEMPLATE

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

USE	Number of Parking Spaces	Minimum Loading Bay	Minimum Loading Space
Residential Units:			
Single Family	2	0	0
Two Family	4	0	0
Apartments (1 Bedroom, 2 Bedrooms, 3 Bedrooms or more)	1, 1.5, 2	0	0

