

**SECTION 9000: SMART GROWTH OVERLAY DISTRICTS (SGODs)**

**9010. PURPOSE.** The purposes of this Section 9000 are to:

- 9011. Establish Smart Growth Overlay Districts to encourage smart growth in accordance with the purposes of M.G.L. Chapter 40R and to the extent the following other purposes are not in conflict with the Governing Laws;
- 9012. Promote development that is consistent with the Pepperell Master Plan including mixed use development, traditional neighborhoods, and property reinvestment to create a vibrant, diverse, connected, and resilient community;
- 9013. Encourage the creation of new multifamily and residential developments in appropriate locations at appropriate densities;
- 9014. Maintain or increase the supply of affordable housing units eligible for the Subsidized Housing Inventory (SHI) that is used to measure a community's stock of low-or moderate-income housing for the purposes of M.G.L. Chapter 40B;
- 9015. Enable the Town to receive Zoning Incentive Payments and Density Bonus Payments in accordance with M.G.L. c. 40R and 760 CMR 59.06, arising from the development of housing within the Smart Growth Overlay Districts;
- 9016. Guide the physical character of development by providing context-based building and site development standards that reflect the scale, design characteristics, and historic development patterns of a traditional New England village while protecting critical natural environmental resources; and
- 9017. Encourage high quality housing production for a variety of age groups, household types, and income ranges that benefit from proximity to services and amenities.

**9020. DEFINITIONS.** For purposes of this Section 9000, the following definitions shall apply. All capitalized terms not defined in this Section shall have the meanings established under the Governing Laws or as set forth in the Plan Approval Authority (PAA) Regulations. With respect to their application to this Section 9000, 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 9000, inclusive of the Design Standards, PAA Regulations, or any other applicable associated local zoning requirement (e.g., zoning requirement contained in another section of the Zoning Bylaw that is nonetheless incorporated by reference), the terms of the Governing Laws shall govern.

***Administering Agent or Monitoring Agent*** – the Town of Pepperell Housing Authority or other qualified housing entity designated by the PAA by majority vote pursuant to Subsection 9052, to review and implement the Affordability requirements affecting Projects under Subsection 9050.

Draft: 10/17/2022

**Affordable Homeownership Unit** – an Affordable Housing unit required to be sold to a Low Income Eligible Household or a Very Low Income Eligible Household.

**Affordable Housing** - housing that is affordable to and occupied by Low Income Eligible Households or Very Low Income Eligible Households.

**Affordable Housing Restriction** - a deed restriction of Affordable Housing meeting the statutory requirements in M.G.L. Chapter 184, Section 31 and the requirements of Subsection 9056 of this Bylaw.

**Affordable Rental Unit** – an Affordable Housing unit required to be rented to a Low Income Eligible Household or a Very Low Income Eligible Household.

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

**As-of-right** - a use allowed under Section 9000 or District-specific provisions of Subsections 9200 and 9300 without recourse to a special permit, variance, zoning amendment or other form of zoning relief. A Project that requires Plan Approval by the PAA pursuant to Subsections 9090 through 9130 shall be considered an as-of-right use, subject to review and approval by DHCD of any Municipal 40R regulations, guidelines, application forms, or other requirements applicable to review of Projects by the Plan Approval Authority under this Section 9000 and 760 CMR 59.00.

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

**Design Standards** – provisions of Subsection 9130 and found within a separate document, *Town of Pepperell Smart Growth Overlay District Design Standards*, to be placed on file in the Office of the Town of Pepperell Clerk, applicable to Projects within SGODs.

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

**Gross Buildable Land** – area of land within a parcel that can feasibly be developed or redeveloped under the provisions of Section 9000 and the Governing Laws and does not include rights-of-way of existing public streets, ways, and transit lines; dedicated open space (as defined in the Governing Laws) and any of the following areas exceeding ½ acre of contiguous land: floodplain, wetlands, or wetland buffer zone areas; River Protection Areas; rare and endangered species habitats as designated by the Massachusetts Natural Heritage and Endangered Species Program; slopes over 15%.

**Low Income 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.

**Low Income Dwelling Unit** - an Affordable Housing unit required to be rented or sold to a Low-Income Eligible Household.

**Mixed-Use Development Project** – a Project containing a mix of residential uses and non-residential uses, as allowed in applicable District-specific subsections of this Section 9000, and subject to all applicable provisions of this Section 9000.

**Monitoring Agent or Administering Agent** – the Town of Pepperell Housing Authority or other qualified housing entity designated by the PAA pursuant to Subsection 9052, to review and implement the Affordability requirements affecting Projects under Subsection 9050.

**NRSGOD** – The Nashua Road Smart Growth Overlay District established in accordance with Subsection 9300.

**PAA Regulations** – the rules and regulations of the PAA adopted pursuant to Subsection 9093 and which may be included within the Planning Board Rules and Regulations on file with the Town of Pepperell Clerk.

**Plan Approval** – approval of a Project in accordance with the standards and procedures which Projects in SGODs must meet pursuant to Subsections 9090 through 9130 and the Governing Laws.

**Plan Approval Authority (PAA)** – The Town of Pepperell Planning Board, which is the local approval authority authorized under Subsection 9092 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 a SGOD in accordance with the requirements of this Section 9000.

**Residential Project** – a Project that consists solely of residential, parking, and accessory uses, as further defined in applicable District-specific subsections.

**SGODS** – the Smart Growth Overlay Districts established in accordance with this Section 9000, singularly, SGOD.

**Shared Parking** – The use of shared parking lots with offset peak demand times where: there is a shared parking agreement between or among proximate properties where uses have offset peak demand times, and uses have a high rate of parking turnover; or similar parking arrangement for use and location situations that may be operated successfully to provide adequate parking for the expected parking demand.

**TCSGOD** – The Town Center Smart Growth Overlay District established in accordance with Subsection 9200.

**Town** – The Town of Pepperell

**Very Low Income Eligible Household** - an individual or household whose annual income is less than or equal to 50 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.

**Very Low Income Dwelling Unit** - an Affordable Housing unit required to be rented to a Very Low Income Eligible Household.

**Zoning Bylaw** - the Zoning Bylaw of the Town of Pepperell.

### **9030. APPLICABILITY OF SGODS – SCOPE AND AUTHORITY**

**9031. APPLICABILITY OF SGODS.** An Applicant may seek development of a Project located within a SGOD in accordance with the provisions of the Governing Laws and this Section 9000, which must include a request for Plan Approval by the PAA. In such case, notwithstanding anything to the contrary in the Zoning Bylaw, such application shall not be subject to any other provisions of the Zoning Bylaw, including limitations upon the issuance of building permits for residential uses related to a rate of development or phased growth limitation or to a local moratorium on the issuance of such permits, or to other building permit or dwelling unit limitations. To the extent that there is any conflict between the Governing Laws and this Section 9000, 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 Bylaw that is nonetheless incorporated by reference), the Governing Laws shall govern.

**9032. UNDERLYING ZONING.** The SGODs are overlay districts superimposed on all underlying zoning districts. The regulations for use, dimension, and all other provisions of the Zoning Bylaw governing the underlying zoning district(s) shall remain in full force, except for those Projects undertaken pursuant to this Section 9000. Within the boundaries of the SGOD, an Applicant may elect either to develop a Project in accordance with the requirements of the Smart Growth Zoning, or to develop a project in accordance with requirements of the regulations for use, dimension, and all other provisions of the Zoning Bylaw governing the underlying zoning district(s). Where a Project proposed pursuant to this Section falls within a Water Resource Protection Overlay District as set forth in Section 8100 or a Sewer Zoning District as set forth in Section 8400, the Project shall comply with the applicable provisions of that Section, including any special permit(s) as may be required.

**9033. ADMINISTRATION, ENFORCEMENT, AND APPEALS.** The provisions of this Section 9000 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 Subsections 9090 through 9130 shall be governed by the applicable provisions of M.G.L. Chapter 40R. Any other request for enforcement or appeal arising under this Section

9000 shall be governed by the applicable provisions of M.G.L. Chapter 40A.

**9040. PERMITTED USES.** Permitted uses within the SGODS are specified under the applicable District-specific Subsections of this Section 9000.

**9050. HOUSING AND HOUSING AFFORDABILITY**

**9051. NUMBER OF AFFORDABLE HOUSING UNITS.** At least 20% of all homeownership units in a Project must be Affordable Homeownership Units. All rental Projects or rental portions of a Project must meet the respective requirement in either Column A or Column B of Figure 1:

<b>Figure 1. Number of Affordable Rental Housing Units</b>			
<b>Project Size / total rental units</b>		<b>Minimum Number of Dwelling Units (Project must meet the requirements Column A or Column B)</b>	
		<b>Column A</b>	<b>Column B</b>
1.	8 or fewer units	No minimum number of affordable units.	
2.	9 units to 49 units	Not less than 20% of total dwelling units must be Very Low Income Dwelling Units	Not less than 25% of total dwelling units must be Low Income Dwelling Units
3.	50 or more units	Not less than 20% of total dwelling units must be Very Low Income Dwelling Units	Not less than 20% of total dwelling units must be Low Income Dwelling Units and an additional 5% must be Very Low Income Dwelling Units

The PAA may provide a waiver from the above requirements on the basis that the Project is not otherwise financially feasible, but the PAA may not in any case reduce the number of required Affordable Housing units to less than 20% of total dwelling units for any Project with 9 or more units.

For purposes 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.

**9052. MONITORING AGENT.** A Monitoring Agent, which may be the local housing authority or other qualified housing entity, shall be designated by the PAA (the “designating official”) by majority vote. In a case where the Monitoring Agent cannot adequately carry out its administrative duties, upon certification of this fact by the designating official or by DHCD such

duties shall devolve to and thereafter be administered by a qualified housing entity designated by the designating official. In any event, such Monitoring Agent shall ensure the following, both prior to issuance of a Building Permit for a Project within the SGOD, and on a continuing basis thereafter, as the case may be:

- a. Prices of Affordable Homeownership Units are properly computed; rental amounts of Affordable Rental Units are properly computed;
- b. Income eligibility of households applying for Affordable Housing is properly and reliably determined;
- c. The housing marketing and resident selection plan conform to all requirements, have been approved by DHCD specifically with regard to conformance with M.G.L. c.40R and 760 CMR 59.00, and are properly administered;
- d. Sales and rentals are made to Low Income Eligible Households or Very Low Income Eligible Households, as applicable, chosen in accordance with the housing marketing and resident selection plan with appropriate unit size for each household being properly determined and proper preference being given; and
- e. Affordable Housing Restrictions meeting the requirements of this Subsection are approved by DHCD specifically with regard to conformance with M.G.L. c.40R and 760 CMR. 59.00, and recorded with the proper registry of deeds.

**9053. SUBMISSION REQUIREMENTS.** As part of any application for Plan Approval for a Project within the SGOD submitted under Subsections 9090 through 9130, the Applicant must submit the following documents to the PAA and the Monitoring Agent:

- a. Evidence that the Project complies with the cost and eligibility requirements of Subsection 9054:
- b. Project plans that demonstrate compliance with the requirements of Subsection 9055; and
- c. A form of Affordable Housing Restriction that satisfies the requirements of Subsection 9056.

These documents in combination, to be submitted with an application for Plan Approval, shall include details about construction of the units that are accessible to individuals with disabilities and appropriate for diverse populations, including households with children, other households, individuals, households including individuals with disabilities, and the elderly.

**9054. COST AND ELIGIBILITY REQUIREMENTS.** Affordable Housing shall comply with the following requirements:

Draft: 10/17/2022

- a. Affordable Housing required to be offered for rent or sale shall be rented or sold to and occupied only by Low Income Eligible Households or Very Low Income Eligible Households as applicable.
- b. 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 a Low-Income Eligible Household or a Very Low Income Eligible Household as applicable, assuming a family size equal to the number of bedrooms in the unit plus one, unless another affordable housing program methodology for calculating rent limits, as approved by DHCD, applies.
- c. 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 a Low Income Eligible Household or a Very Low Income Eligible Household as applicable, assuming a family size equal to the number of bedrooms in the unit plus one, unless another affordable housing program methodology for calculating rent limits, as approved by DHCD, applies.

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

**9055. DESIGN AND CONSTRUCTION.** Units of Affordable Housing shall be finished housing units. With respect to the minimum required number of units for a given Project, units of Affordable Housing shall be equitably integrated and proportionately dispersed throughout the residential portion of the Project of which they are part, across all residential buildings, floors, distinct unit types, and with respect to the gross floor area devoted to residential units, in accordance with the affordable housing restriction and marketing and tenant selection plan approved by DHCD and 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.

**9056. AFFORDABLE HOUSING RESTRICTION.** Each Project shall be subject to an Affordable Housing Restriction (AHR) which is recorded with the appropriate registry of deeds or registry district of the Land Court and which contains the following:

- a. Specification of the term of the Affordable Housing Restriction, which shall be in perpetuity and stipulated in the Plan Approval decision;
- b. The name and address of the Monitoring Agent with a designation of its power to monitor and enforce the Affordable Housing Restriction;
- c. 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 DHCD in accordance with, the corresponding Affirmative Fair Housing Marketing Plan (AFHMP) and DHCD's AFHMP guidelines.
- d. 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 DHCD guidance and approved by DHCD. Consistent with DHCD guidance, such plan shall include a preference based on need for the number of bedrooms in a unit and a preference based on need for the accessibility features of a unit where applicable, and may only provide for additional preferences in resident selection to the extent such preferences are also consistent with applicable law and approved by DHCD.
- e. 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 Low Income Eligible Households and/or Very Low Income Eligible Households as applicable, compiled in accordance with the housing marketing and selection plan;
- f. 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;
- g. A requirement that only a Low Income Eligible Household or a Very Low Income Eligible Household as applicable may reside in Affordable Housing and that notice of any lease of any Affordable Rental Unit shall be given to the Monitoring Agent;
- h. Provision for effective monitoring and enforcement of the terms and provisions of the Affordable Housing Restriction by the



Monitoring Agent;

- i. Provision that the AHR on an Affordable Homeownership Unit shall run in favor of the Monitoring Agent and/or the Town, in a form approved by municipal counsel, and shall limit initial sale and re-sale to and occupancy by a Low Income Eligible Household or a Very Low Income Eligible Household as applicable;
- j. 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 Town, in a form approved by municipal counsel, and shall limit rental and occupancy to a Low Income Eligible Household or a Very Low Income Eligible Household as applicable;
- k. Provision that the owner[s] or manager[s] of Affordable Rental Unit[s] shall file an annual report to the Monitoring Agent, in a form specified by that agent certifying compliance with the Affordability provisions of this Bylaw and containing such other information as may be reasonably requested in order to ensure Affordability; and
- l. A requirement that residents in Affordable Housing provide such information as the Monitoring Agent may reasonably request in order to ensure Affordability.

**9057. COSTS OF HOUSING MARKETING AND SELECTION PLAN.** The housing marketing and 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 develop, advertise, and maintain the list of Low Income Eligible Households or Very Low Income Eligible Households as applicable and to monitor and enforce compliance with Affordability requirements.

**9058. AGE RESTRICTIONS.** Nothing in this Section 9000 shall permit the imposition of restrictions on age upon Projects unless proposed or agreed to voluntarily by the Applicant. However, the PAA may, in its review of a submission under Subsection 9063, allow a specific Project within the SGOD designated exclusively for the elderly, persons with disabilities, or for assisted living, provided that any such Project shall be in compliance with all applicable federal, state, and local fair housing laws and regulations and not less than twenty-five percent (25%) of the housing units in such a restricted Project shall be restricted as Affordable Housing units.

**9059. PHASING.** For any Project that is approved and developed in phases in accordance with Subsection 9094, the percentage of Affordable Housing units in each phase shall be at least equal to the minimum percentage of Affordable Housing required under Subsection 9051 or 9058, as applicable. Where the percentage of Affordable Housing is not uniform

across all phases, the unit dispersal and bedroom proportionality requirements under Subsection 9055 shall be applied proportionately to the Affordable Housing provided for in each respective phase.

**9060. NO WAIVER.** Notwithstanding anything to the contrary herein, the Affordability provisions in this Subsection 9050 shall not be waived unless expressly approved in writing by DHCD at the request of the PAA.

**9070. DIMENSIONAL AND DENSITY REQUIREMENTS - GENERAL**

**9071. DIMENSIONAL REQUIREMENTS.** Notwithstanding anything to the contrary in this Zoning Bylaw, the dimensional requirements applicable in any SGOD for specific development forms and building types are listed in Figure 2 below:

DRAFT

<b>Figure 2. Dimensional Requirements, All SGODs</b>					
		<b>Detached Single Family Dwelling (SFD)</b>	<b>Detached Duplex (Two-Family) Dwelling</b>	<b>Multifamily Building (MF)</b>	<b>Mixed Use Building (MUB)</b>
<b>1. Definition</b>					
1.1	Definition	A detached building containing not more than one dwelling unit and intended or designed to be occupied by one family	A detached building that consists of two (2) residential units each with an entry from the street. This building type has the appearance of a small-to-medium single-family house and may include a rear yard and rear access from an alley. A duplex can be attached horizontally (side by side) or vertically (one unit over the other).	A residential-type building with three or more dwelling units vertically and horizontally integrated and accessed by common entrances and hallways. MF Buildings do not include non-residential uses.	A building that typically accommodates a variety of ground floor commercial uses and upper floor residential and office uses at a scale that is comparable and complimentary to its given district.
<b>2. Lot Standards</b>					
2.1	Lot Size (S.F.) (Min.)	5,000 S.F.	5,000 S.F.	8,000 SF	Not Required
2.2	Frontage (Min./Max.)	50 Ft. Min.	50 Ft. Min.	80 Ft. Min.	50 Ft. Min.
2.3	Front Yard Build-To-Zone (Min./Max.)	20 Ft. Min.	20 Ft. Min.	TCSGOD: Not Required. NRSGOD: Not Required.	0 Ft. / 20 Ft.
2.4	Side Yard Setback (Min.)	15 Ft.	15 Ft.	TCSGOD: 10 ft. NRSGOD: 10 Ft.	10 Ft. (0 Ft. if Common Wall)
2.5	Rear Yard Setback (Min.)	15 Ft.	15 Ft.	10 Ft.	20 Ft.
2.6	Outdoor Amenity Space Lot Coverage	20%	20%	20%	15%

	(Min.)				
<b>Figure 2. Dimensional Requirements, All SGODs (Continued)</b>					
		<b>Detached Single Family Dwelling (SFD)</b>	<b>Detached Duplex (Two-Family) Dwelling</b>	<b>Multifamily Building (MF)</b>	<b>Mixed Use Building (MUB)</b>
<b>3. Design Standards</b>					
3.1	Building Height (Max.)	2.5 Stories / 30 Ft.	2.5 Stories / 30 Ft.	4 Stories / 40 Ft.	4 Stories / 40 Ft.
3.2	Street Facing Wall Width (Min./Max.)	18 Ft. / 50 Ft.	18 Ft. / 50 Ft.	TCSGOD: Not Required. NRSGOD: Not Required.	30 Ft. / 150 Ft.
3.3	Street Facing Entrance	Not Required	Not Required	Not Required	Required
3.4	Maximum Building Footprint (SF)	Not Required	Not Required	Not Required	20,000 SF
<b>4. Additional Standards</b>					
4.1		Maximum of 1 dwelling unit per building.	Maximum of 2 dwelling units per building.		One-Story Buildings must have a minimum street facing façade height of 18 feet.
4.2					Where there is a side setback, a minimum of 10 feet is required to accommodate pedestrian access or 20 feet to accommodate vehicle access to the side and rear of the property.

**9072. ADDITIONAL REQUIREMENTS.** Further requirements for dimensions and residential density in the corresponding District-specific subsections are applicable.

**9073. DIMENSIONAL WAIVERS.** The PAA may grant a waiver from the dimensional standards of Subsection 9071, in accordance with Subsection 9113. When determining Project waivers, the PAA may consider:

- a. Encouraging the development of infill housing units near or within Substantially Developed Land;
- b. Increasing the available light and air in and around the building and adjacent buildings;
- c. Better vehicle and/or pedestrian access to the building and surrounding buildings and accessory parking and other uses;
- d. Increasing the amount of open space, park, and recreation areas for users of the building or the general public;
- e. Preserving or enhancing scenic views within and beyond the structure and between adjacent structures; and
- f. Maximizing benefits of cluster development, including but not limited to better siting of buildings, efficient use of public services and facilities, and preservation of substantial open space and natural areas.

#### **9080. PARKING REQUIREMENTS - GENERAL**

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

**9081. NUMBER OF PARKING SPACES.** Unless otherwise found to be Unduly Restrictive with respect to Project feasibility and approved by the PAA, the numbers of parking spaces as described in Figure 3 shall be provided, respectively, by use, either in surface parking, within garages or other structures, or along the corresponding lot frontage where on-street parking exists on the same side of an abutting street. Unless otherwise found to be Unduly Restrictive with respect to Project feasibility and approved by the PAA, a Project may not contain more or fewer spaces than the numbers in Figure 3. When the computation specified by Figure 3 results in a fractional space, that number shall be rounded up.

<b>Figure 3. Parking Requirements, All SGODs</b>		
<b>Use</b>	<b>Required Parking Within 300 Ft of Municipal Parking Lot<sup>1</sup></b>	<b>Parking Required in Other Locations</b>
<b>Commercial or Civic Uses</b>		
Retail Business, Commercial or Personal Service Establishment	1 space per 400 gross square feet	1 space per 300 gross square feet
General Office or Retail in Mixed Use Buildings	1 space per 500 gross square feet	1 space per 400 gross square feet
Medical or Dental Office or Clinic	5 spaces/doctor or dentist within a single office or suite	Same
Restaurant or Place of Assembly	1 space for each 2 seats	1 space for each 3 seats
Fabrication and Trades	Determined by PAA through Plan Approval Process	Determined by PAA through Plan Approval Process
<b>Residential Uses</b>		
Detached Single Family Dwelling, Detached Duplex (Two-Family) Dwelling	1.5/DU with 2 bedrooms or less; and 2/DU with 3 bedrooms or more located within 300 feet of the Dwelling Unit	Same
Multifamily Building or Mixed Use, 1-bedroom unit	1 space	1 space per unit
Multifamily Building or Mixed Use, 2-bedroom unit	1.5 spaces	1 space per unit
Multifamily Building or Mixed Use, 3 or more bedroom unit	2 spaces	2 spaces per unit

**9082. SHARED PARKING.** Notwithstanding anything to the contrary herein, the use of Shared Parking to fulfill parking demands noted above that occur at different times of day is strongly encouraged. Minimum parking requirements above may be reduced by the PAA through the Plan Approval process, if the Applicant can demonstrate that shared spaces will meet parking demands by using accepted methodologies (e.g., the Urban Land Institute Shared Parking Report, ITE Shared Parking Guidelines, or other sources shown to be generally accepted by land use and/or transportation professionals).

**9083. REDUCTION IN PARKING REQUIREMENTS.** Notwithstanding anything to the contrary herein, any minimum required amount of parking may be reduced by the PAA through the Plan Approval process, if the Applicant can demonstrate that the lesser amount of parking will not cause excessive congestion, endanger public safety, or that a 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(l)(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;
- f. Any applicable transportation demand management strategies that will be integrated into the Project or such other factors as may be considered by the PAA including but not limited to an active car-sharing program made available to residents and/or employees of a Project in which cars for the car-share program are available on the site or within a 700-foot walking distance of the site;
- g. Any permanent easements on the property for the purposes of constructing public parking for all or a portion of required on-site parking spaces, with the qualification that the reserved easement shall be subject to review and approval by the Select Board;
- h. Any proposed parking to be provided off-site, except for any accessible parking required by the Americans with Disabilities Act (ADA) or other accessibility regulations as appropriate and when conforming to the following:
  - (1) A lot featuring the off-site parking must be located within a 700-foot walking distance, measured from the nearest point of the off-site parking along walkways to the principal building entrance served;
  - (2) Pedestrian access between the use and the off-site accessory parking area must be via paved sidewalk or walkways; and

(3) A lease, recorded covenant, or other comparable legal instrument, executed and filed with the Town of Pepperell, guaranteeing long term use of the site is provided to the PAA.

**9084. LOCATION OF PARKING.** Any surface parking lot or parking structure shall comply with the Design Standards.

#### **9090. PLAN APPROVAL OF PROJECTS: GENERAL PROVISIONS**

**9091. PLAN APPROVAL.** All Applicants for Projects proposed to be developed in accordance with this Section 9000 shall submit an application for Plan Approval to the PAA to be reviewed for consistency with the purposes and intent of the applicable SGOD and Subsections 9090 through 9130. 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.

**9092. PLAN APPROVAL AUTHORITY (PAA).** The Planning Board, consistent with M.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 for Projects within the SGOD.

**9093. PAA REGULATIONS.** The Plan Approval Authority may adopt administrative rules and regulations relative to Plan Approval (the PAA Regulations). Such rules and regulations and any amendments thereof must be approved by the DHCD.

**9094. 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 Subsection 9059.

**9095. PHASING SCHEDULE.** Where a Project is proposed to be constructed in phases, the Project shall be so designed that each phase shall be complete in terms of the presence of services, construction, facilities, and open space before commencement of the next phase, and shall contain the necessary components to ensure the health, safety and welfare of the users of the Project and the residents of the Town.

In Projects that include non-residential components, no phase shall include the completion of a greater proportion of the total proposed non-residential gross floor area than the total proposed gross floor area of residential dwelling units.

#### **9100. PLAN APPROVAL PROCEDURES**

**9101. PREAPPLICATION.** Prior to the submittal of a Plan Approval submission, a "Concept Plan" may be submitted to the PAA to help guide the

Draft: 10/17/2022



development of the definitive submission for Project buildout and individual elements thereof. If submitted, such Concept Plan should reflect the following:

- a. Overall building envelope areas;
- b. Open space and natural resource areas; and
- c. 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 applicable SGOD.

**9102. REQUIRED SUBMITTALS.** An application for Plan Approval shall be submitted to the PAA on the form provided by the PAA and approved by DHCD, along with application fee(s) which shall be as set forth in the PAA Regulations. The application shall be accompanied by such plans and documents as may be required and set forth in the PAA Regulations. For any Project that is subject to the Affordability requirements of Subsection 9050, the application shall be accompanied by all materials required under Subsection 9055. For any Project that is subject to the Development Impact Mitigation requirements of Subsection 9140, the application shall be accompanied by all materials required under that Subsection. All site plans shall be prepared by an architect, landscape architect, and/or a civil engineer registered in the Commonwealth of Massachusetts. All landscape plans shall be prepared by a landscape architect registered in the Commonwealth of Massachusetts. All building elevations shall be prepared by an 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.

**9103. FILING.** An Applicant for Plan Approval shall file the required number of copies of the application form and the other required submittals as set forth in the PAA Regulations with the Town Clerk, and a copy of the application including the date of filing certified by the Town Clerk shall be filed forthwith with the PAA.

**9104. CIRCULATION TO OTHER BOARDS.** Upon receipt of the application, the PAA shall promptly provide a copy of the application materials to the Select Board, Board of Appeals, Board of Health, Conservation Commission, Fire Department, Police Department, Building Commissioner, Department of Public Works, Historical Commission, Affordable Housing Committee, Climate Change Committee, the Monitoring Agent (if already identified, for any Project subject to the Affordability requirements of Subsection 9550), and other municipal officers, agencies or boards as the PAA determines appropriate for

comment, and any such board, agency or officer shall provide any written comments within 60 days of its receipt of a copy of the application materials.

**9105. HEARING.** The PAA shall hold a public hearing for which notice has been given as provided in Section 11 of M.G.L. Chapter 40A. The decision of the PAA shall be made, and a written notice of the decision filed with the Town Clerk, within 120 days of the receipt of the application by the Town Clerk. The required time limits for such action may be extended by written agreement between the Applicant and the PAA, with a copy of such agreement being filed in the office of the Town Clerk. Failure of the PAA to take action within said 120 days or extended time, if applicable, shall be deemed to be an approval of the Plan Approval application.

**9106. PEER REVIEW.** The Applicant shall be required to pay for reasonable consulting fees to provide peer review of the Plan Approval application, pursuant to M.G.L. Chapter 40R, Section 11(a). Such fees shall be held by the Town in a separate account and used only for expenses associated with the review of the application by outside consultants, including, but not limited to, attorneys, engineers, urban designers, housing consultants, planners, and others. Any surplus remaining after the completion of such review, including any interest accrued, shall be returned to the Applicant forthwith.

#### **9110. PLAN APPROVAL DECISIONS**

**9111. PLAN APPROVAL.** Plan Approval shall be granted where the PAA finds that:

- a. The Applicant has submitted the required fees and information as set forth in the PAA Regulations;
- b. The Project as described in the application meets all of the requirements and standards set forth in this Section 9000, the PAA Regulations, and the Design Standards, or a waiver has been granted therefrom;
- c. A Monitoring Agent for the Project has been identified and any applicable Affordable Housing requirements will be satisfied prior to the issuance of building permits;
- d. Any extraordinary adverse potential impacts of the Project on nearby properties have been adequately mitigated; and
- e. The requirements of Subsection 9140, Development Impact Mitigation, have been fulfilled if applicable, including the submission of plans for mitigation of all extraordinary adverse potential impacts of the Project that Subsection 9140 requires.

The PAA may attach conditions to the Plan Approval decision that are necessary to ensure substantial compliance with this Section 9000 or to

mitigate any extraordinary adverse potential impacts of the Project on nearby properties.

**9112. PLAN DISAPPROVAL.** A Plan Approval application may be disapproved only where the PAA finds that:

- a. The Applicant has not submitted the required fees and information as set forth in the PAA Regulations; or
- b. The Project as described in the application does not meet all of the requirements and standards set forth in this Section 9000, the Design Standards, and the PAA Regulations, or that a requested waiver therefrom has not been granted; or
- c. It is not possible to adequately mitigate extraordinary adverse Project impacts on nearby properties by means of suitable conditions.

**9113. WAIVERS.** Upon the request of the Applicant and subject to compliance with M.G.L. c. 40R, 760 CMR 59.00 and Subsections 9050 and 9060, the Plan Approval Authority may waive dimensional and other requirements of Section 9000, including the Design Standards, in the interests of design flexibility and overall project quality, and upon a finding of consistency of such waiver with the overall purpose and objectives of the SGOD, or if it finds that such waiver will allow the Project to achieve the density, Affordability, mix of uses, and/or physical character allowable under this Section 9000.

**9114. PROJECT PHASING.** The PAA, as a condition of any Plan Approval, may allow a Project to be phased at the request of the Applicant, or it may require a Project to be phased for the purpose of coordinating its development with the construction of Planned Infrastructure Improvements (as that term is defined under 760 CMR 59.00), or to mitigate any extraordinary adverse Project impacts on nearby properties. For Projects that are approved and developed in phases, unless otherwise explicitly approved in writing by the DHCD 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 Subsection 9051 or 9058, as applicable. Projects that are approved and developed in phases must comply with Subsection 9095, Phasing Schedule.

**9115. FORM OF DECISION.** The PAA shall issue to the Applicant a copy of its decision containing the name and address of the owner, identifying the land affected, and the plans that were the subject of the decision, and certifying that a copy of the decision has been filed with the Town Clerk and that all plans referred to in the decision are on file with the PAA. If twenty (20) days have elapsed after the decision has been filed in the office of the Town Clerk without an appeal having been filed or if such appeal, having been filed, is dismissed or denied, the Town Clerk shall so

certify on a copy of the decision. If a plan is approved by reason of the failure of the PAA to timely act, the Town Clerk shall make such certification on a copy of the application. A copy of the decision or application bearing such certification shall be recorded in the registry of deeds for the county and district in which the land is located and indexed in the grantor index under the name of the owner of record or recorded and noted on the owner's certificate of title. The fee for recording or registering shall be paid by the Applicant.

**9116. 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 Applicant 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.

#### **9120. CHANGE IN PLANS AFTER APPROVAL BY PAA**

**9121. MINOR CHANGE.** After Plan Approval, an Applicant may apply to the PAA to make minor changes in a Project involving minor utility or building orientation adjustments, or minor adjustments to parking or other site details that do not affect the overall buildout or building envelope of the site, or provision of open space, number of housing units, or housing need or Affordability features. Such minor changes must be submitted to the PAA on redlined prints of the approved plan, reflecting the proposed change, and on application forms provided by the PAA. The PAA may authorize such changes at any regularly scheduled meeting, without the need to hold a public hearing. The PAA shall set forth any decision to approve or deny such minor change by motion and written decision, and provide a copy to the Applicant for filing with the Town Clerk.

**9122. MAJOR CHANGE.** Those changes deemed by the PAA to constitute a major change in a Project because of the nature of the change in relation to the prior approved plan, or because such change cannot be appropriately characterized as a minor change as described above, shall be processed by the PAA as a new application for Plan Approval pursuant to Subsections 9090 - through 9130.

#### **9130. DESIGN STANDARDS - GENERAL**

**9131 ADOPTION OF DESIGN STANDARDS.** Any Project proposed in accordance with this Section 9000 and the Governing Laws shall be subject to the Design Standards found within the PAA Regulations, which must be adopted in accordance with Subsection 9130 and shall be placed on file in the Office of the Town of Pepperell Clerk

**9132 PURPOSE.** The Design Standards are adopted to ensure that, to the extent consistent with the Governing Laws, the physical character of

Projects within SGODs:

- a. Will be complementary to nearby buildings and structures;
- b. Will be consistent with the Pepperell Housing Production Plan, the Town of Pepperell Master Plan, and other applicable plan documents adopted by the Town; and
- c. Will provide for high-density quality development consistent with the character of building types, streetscapes, and other community features traditionally found in densely settled areas of the Town.

**9131. DESIGN STANDARDS.** The PAA may adopt, by simple majority vote, Design Standards which shall be applicable to development Projects subject to Plan Approval by the PAA. Such Design Standards must be objective and not subjective and may only address the scale and proportions of buildings; exterior sheathing; the alignment, width, and grade of streets and sidewalks; the type and location of infrastructure; the location of building and garage entrances; the location and design of 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 the Design Standards to contain graphics illustrating a particular standard or definition in order to make such standard or definition clear and understandable.

**9132. DHCD APPROVAL.** After adopting Design Standards, the PAA shall submit the Design Standards to DHCD for approval. Design Standards shall not take effect until approved by DHCD and filed with the Town Clerk. In submitting proposed Design Standards for DHCD approval, the PAA shall also submit sufficient documentation clearly showing that the proposed Design Standards will not add unreasonable costs to Projects or unreasonably impair the economic feasibility of a Project. A letter from a developer, property owner or other interested party indicating that the Design Standards will not add unreasonable costs or Unreasonably Impair the economic feasibility of a Project shall not constitute sufficient documentation. At its discretion, DHCD may disapprove Design Standards if it finds that the PAA has not adopted objective Design Standards or has not submitted such documentation.

**9133. PLAN APPROVAL.** An application for Plan Approval that has been submitted to the Town Clerk pursuant to this Section 9000 shall not be subject to Design Standards that have not been approved by DHCD and filed with the Town Clerk.

#### **9140. DEVELOPMENT IMPACT MITIGATION**

**9141. PURPOSE.** The purpose of these provisions is to:

- a. Protect the health, safety and general welfare of the inhabitants of the Town of Pepperell by providing for the assessment of plans for proposed uses and structures which will have impacts on traffic, public utilities, and the natural environment, and by requiring the reasonable mitigation of those impacts.
- b. Ensure that Pepperell's infrastructure is upgraded and maintained in a responsible manner consistent with State and municipal laws.
- c. Increase the safety and reliability of Pepperell's roads for pedestrians, residents, employees, and motorists and require major developments to bear a proportionate share of the cost of capital facilities necessary to accommodate such development.

**9142. APPLICABILITY.** Except to the extent the PAA grants a waiver in accordance with Section 9113, the requirements of this Subsection shall apply to any Project greater than fifty (50) residential units within any SGOD. A Project shall not be segmented to evade the threshold set forth above.

**9143. SUBMISSION OF DEVELOPMENT IMPACT STATEMENT (DIS).** An application for Plan Approval for such Project within a SGOD shall include a DIS which shall be prepared by personnel competent and qualified in their respective fields; at a minimum, the traffic and utility assessments must be prepared by qualified Massachusetts Registered Professional Engineers. The DIS shall include detailed, reasonable information, including an assessment of the clear, direct impacts, solely from the subject Project, both beneficial and adverse, upon:

- a. **TRANSPORTATION.** Roadways, streets, and other public ways including the safety and circulation of motorized traffic, bicycle traffic, pedestrian movement, transit including on- or off-site school bus drop-off/pick up; and other modes of transportation if applicable;
- b. **UTILITIES.** Public and private utilities, including water and sewer supply and demand, gas, electric, telephone, and the like, including on- or off-site sanitary waste disposal;
- c. **NATURAL ENVIRONMENT.** The immediately surrounding natural environment, including wetland resources, wildlife, dark skies, and other aspects of the natural environment, including impact on Greenhouse Gas (GHG) emissions;
- d. **STORM WATER.** Storm water management and drainage courses, including aquifer recharge if appropriate;
- e. **CULTURAL RESOURCES.** Cultural, historical, and recreational resources, including parks, playgrounds, recreational spaces, archeological sites, historical landscapes or structures, and the like; and

- f. **HOUSING AND ECONOMY.** The Town's supply of housing, including Affordable Housing and diverse housing units, and the economic development of the immediately surrounding area and the Town as a whole.

The DIS shall be organized into six sections as described above, with each section to include measures the Project will use to mitigate impacts when applicable.

- 9144. TRAFFIC STUDY.** Section A of the DIS shall include a traffic study (Traffic Study) which shall document existing traffic conditions in the vicinity of the proposed Project, accurately describe the volume and effect of the projected traffic generated by the proposed Project, and identify measures necessary and sufficient to mitigate any adverse impacts on existing traffic conditions.

Prior to preparing the Traffic Study, the Applicant's Registered Professional Engineer is strongly encouraged to participate in a Scoping Meeting with the Town Engineer to review the proposed scope of the Traffic Study, including the identification of the Project impact area or intersections to be studied. The Town Engineer shall provide a written statement to the PAA regarding concurrence or disagreement with the proposed scope or the scope as otherwise provided in the Traffic Study, and the reasons for his/her opinion. Such written statement shall be provided to the Applicant either within thirty (30) days of the Town Engineer's pre-application meeting with the Applicant's Registered Professional Engineer or, if no Scoping Meeting is held, within thirty (30) days of the Town Engineer's receipt of the Traffic Study as part of the application circulated by the Town Clerk. Such written statement of concurrence or disagreement shall be either included with or subsequently attached to, as applicable, the Traffic Study submitted by the Applicant. The PAA may require the Applicant to study and evaluate additional roadways and/or intersections to address any reasonable concerns identified by the Town Engineer.

The Traffic Study shall contain the following:

- a. Existing traffic conditions: Measurement and assessment of average and daily peak hour vehicular, pedestrian and bicycle traffic volumes, average and peak speeds, sight distances, accident data and Levels of Service (LOS) of all intersections and streets within the Project impact area and including any intersection projected to be adversely affected by the Project over the 'No Build' condition. Such data shall be no more than twelve (12) months old at the time of application, unless other data are specifically approved by the PAA with the recommendation(s) of the Town Engineer. Automated Traffic Recorder (ATR) data must be for a minimum of 48 hours, not including Saturdays, Sundays, holidays, any day within a holiday week, or any day with any snowfall in a 15-mile radius of the site. For each location counted,

a plot of average directional count by hours for a 24-hour average weekday shall be provided.

- b. For Projects near a State or Federal highway, turning movement counts must be sufficient to show that they include, at a minimum, the two highest peak hours among these possibilities: AM highway peak, mid-day highway peak, mid-afternoon highway peak, and PM highway peak. If the two highest generator peak hours do not overlap any part of the highway peak, substantiating data must be provided.
- c. With respect to accident history, a minimum of three (3) years of data shall be provided for each roadway and intersection impacted by the Project. Written requests for accident reports shall be made to the Pepperell Police Department for local roads and intersections and to MassDOT's District 4 Engineer for roads and intersections on State highways.
- d. Projected traffic conditions: Projected traffic conditions for the design year of occupancy, including a statement of the design year of occupancy, estimated background traffic growth on an annual average basis, and impacts of other proposed developments that have been approved in whole or in part by the Town of Pepperell or an abutting town which will affect future traffic conditions.
- e. Projected impact of proposed Project: Projected peak hour and daily traffic generated by the Project on the roads and ways in the Project impact area, sight lines at the intersections of the proposed driveways and streets, existing and proposed traffic controls in the vicinity of the proposed Project, and projected post-development traffic volumes and Levels of Service (LOS) of intersections and roads likely to be affected by the proposed Project.
- f. Traffic mitigation measures: Specific measures to be undertaken by the Applicant in order to mitigate the impacts of the proposed Project and to ensure that current traffic conditions and Levels of Service (LOS) are not adversely affected, to a significant degree, by the Project. Also, the assessment shall consider both on-site and off-site mitigation measures, to include but not be limited to new traffic control signals, increase(s) in right of way capacity via widening roads, or other right of way or intersection improvements. It shall also include Transportation Demand Management (TDM) strategies if applicable. The assessment shall also consider how the proposed mitigation measures and future year performance degradation are fully mitigated to the equivalent 'No Build' condition. However, unless necessary to mitigate extraordinary adverse impact(s) on neighboring properties, the PAA may not condition its approval of the Project on full mitigation



to the equivalent of the 'No Build' condition if this requirement would render the Project infeasible.

Section A of the DIS shall also include, at minimum, an analysis of impacts upon pedestrian movement and safety, including existing levels of pedestrian traffic within five hundred (500) feet of the Project site, five (5) year projections of volumes of pedestrian traffic, the location and condition of existing sidewalks and other pedestrian ways including whether or not compliant with ADA requirements, and provision of lighting and other safety measures in areas where pedestrian traffic exists or is expected as a result of the Project.

**9145. UTILITY IMPACT ASSESSMENT.** Section B of the DIS shall include a utility impact assessment (Utility Impact Assessment) which shall document the capacity and condition of the existing public utility infrastructure in the vicinity of the proposed Project, including but not limited to water and sewer services and storm water drainage systems. The assessment shall also accurately describe the additional demand, if any, upon said infrastructure items, generated by the proposed Project, and identify measures necessary and sufficient to mitigate the impact caused by any such additional demand.

Prior to preparing the Utility Impact Assessment, the Applicant's Professional Engineer is strongly encouraged to meet with the Town Engineer to review the proposed scope of the Utility Impact Assessment, including the identification of the Project impact area to be studied, which shall include all water and sewer utilities likely to be affected by the proposed Project. The Town Engineer shall provide a written recommendation to the PAA regarding the proposed scope or the scope as otherwise provided in the Utility Impact Assessment, and the reason(s) therefor. Such written recommendation shall be provided to the Applicant within thirty (30) days of the Town Engineer's meeting with the Applicant's Professional Engineer, or, if no Scoping Meeting is held, within thirty (30) days of the Town Engineer's receipt of the Utility Impact Assessment as part of the application circulated by the Town Clerk. Such written recommendation shall either be included with or subsequently attached to, as applicable, the Utility Impact Assessment submitted by the Applicant.

The PAA may require the Applicant to study and evaluate additional utility infrastructure impacts, including but not limited to water, sewer and storm water drainage, to address any concerns identified by the Town Engineer.

The Utility Impact Assessment shall evaluate:

- a. Existing condition and capacity: Identification of the size, type, condition and overall remaining capacity of the existing utility infrastructure. The assessment shall include examination of available and discovered Town plans within the immediate Project vicinity, completion of hydrant pressure testing of the Town water

main(s) serving the facility and, where necessary, video camera inspections of existing sewer service connections to be used. The assessment shall also include an up-to-date inventory of Town-owned utility infrastructure impacted by the Project; for sanitary sewer and storm drainage systems, estimates of the existing capacity and percentage of capacity presently utilized as well as excess capacity if any shall be provided;

- b. Projected conditions: Projected usage shall be provided, including estimated water usage, and sanitary and storm water outflows; together with the impacts, as available, of usage caused by other developments already approved by the Town.
- c. Utility mitigation measures: Specific measures to be implemented by the Applicant to mitigate the impacts of the proposed Project on the public water and sewer infrastructure, including increasing capacity by replacing and/or enlarging existing lines; inflow and infiltration improvements or payments toward removal of inflow and infiltration to create capacity; on-site retention or detention tanks; and other on-site or off-site measures. The proposed mitigation measures, if approved by the PAA, shall be solely related to the Project and completed prior to the issuance of a final Certificate of Occupancy for the Project or applicable Project component.

**9146. OTHER IMPACT ASSESSMENTS.** Sections C through F of the DIS shall include, where applicable, a description of information or analysis of the Project's projected impacts on-site or nearby:

- a. Environmental conditions and impacts, including a summary of wetland resource areas and buffer zones, identified and potential vernal pools, groundwater protection zones, flood hazard areas and floodplains, steep slopes, and areas of known soil or groundwater contamination. If the Project is subject to a Notice of Intent filing under the Wetlands Protection Act or Pepperell Wetlands Protection Bylaw, the Applicant shall provide a copy of the submission within the DIS to fulfill the provisions of this Subsection.
- b. Other environmental factors including but not necessarily limited to Greenhouse Gas emissions, vegetation, light pollution, wildlife passage, and other potential impacts as applicable, including strategies used to mitigate these impacts. Projects that are within 200 feet of a river or perennial stream also require a vegetation analysis within 200 feet of the resource area and plans for restoration, if needed, to reduce runoff and erosion and replace invasive plant species with native plants.
- c. Storm water run-off from impervious surfaces, including overall percentage of impervious surface in the Project area, best

management practices, and green infrastructure that may include rainwater harvesting, rain gardens, bioswales, permeable pavements, green roofs, extending tree canopy, or other storm water management practices.

- d. Parks, playgrounds, and other recreational and open spaces, including all public and privately-owned open space parcels and trails, public parks and playgrounds and athletic facilities such as pools, running tracks, walking paths and ballfields within five hundred (500) feet of the Project site.
- e. Historical and cultural resources and known archeological sites within the Project site and within five hundred (500) feet of the project site, as listed in the Massachusetts Cultural Resource Information System, and as listed in other databases or records as appropriate. If the Project otherwise requires a Project Notification Form (PNF) filing with the State Historic Preservation Officer, the Applicant shall provide a copy of the submission.
- f. The housing stock, quality of life, and economic development in the Town of Pepperell, including the Project's conformance to the most current Pepperell Housing Production Plan, Pepperell Master Plan, and other plans and documents as applicable.

**9146. REPORT BY TOWN ENGINEER.** The Town Engineer shall be responsible for preparing a written report to the PAA after consulting with all relevant Town departments regarding the adequacy and accuracy of the scope, data, findings, and proposed mitigation measures presented in the Development Impact Statement and the proposed mitigation measures proposed in the Traffic Study and Utility Impact Assessment.

**9147. PEER REVIEW.** The PAA may require peer review as it deems appropriate in compliance with Subsection 9106 and the PAA Regulations.

**9148. PERFORMANCE AND COMPLETION OF MITIGATION MEASURES.**

- a. Any extraordinary adverse impacts as described in the DIS must include mitigation measures which are subject to approval or disapproval per Subsections 9090, 9100, and 9110, and any changes to mitigation measures after approval are subject to Subsection 9120.
- b. No building permit shall be issued for a Project under this Section 9000 until a performance guarantee has been established in compliance with the PAA Regulations in a sum sufficient to ensure completion of any said mitigation measures. The sum of said surety shall be established by the PAA after consulting with the Town Engineer, who shall be responsible for review and approval of the costs of constructing/completing mitigation measures and

including a minimum of an additional twelve percent (12%) to the estimate, to account for inflation and as a contingency against unexpected field conditions. Such cost estimate shall be prepared by the Applicant's professional engineer or registered architect. Town Counsel shall approve the performance guarantee as to proper form and content prior to its acceptance by the PAA.

The Applicant is expected to complete/implement any and all reasonable mitigation construction/improvements proportionate to the Project's impact that are required as conditions of any Plan Approval prior to the issuance of a final occupancy permit for the Project. Plan Approval may not be conditioned on mitigation or other measures not required under an applicable state or federal determination, program or law or to otherwise mitigate extraordinary adverse impacts on nearby properties if such measures are unduly restrictive such that fulfilling them would render the Project infeasible.

- c. The PAA may, by majority vote, periodically reduce the amount of the surety to guarantee completion of mitigation measures. No surety reduction or final release of surety funds shall be approved unless the PAA has received certification from the Town Engineer that all required mitigation work has been satisfactorily completed.
- d. If the Applicant has defaulted on the conditions of the Plan Approval and/or has not completed required mitigation work before the issuance of a temporary or final occupancy permit, the Town may complete the mitigation measures as much as is practical with funds obtained through the use of the surety provided by the Applicant.
- e. The PAA, by a majority vote, after receiving the Development Impact Statement and the report of the Town Engineer, may waive all or part of the mitigation requirements of this Subsection 9140. The PAA, in approving a waiver, shall make a specific finding, in writing, that the granting of a waiver will not create conditions which are substantially more detrimental to the neighborhood in which the site is located, than if the waiver were not granted. As the basis for its decision, the PAA shall consider other positive impacts of the Project upon the Project impact area not measured by the Development Impact Statement, such as, but not limited to, the substantial remediation of an environmentally contaminated site, the creation of needed Affordable Housing, and transportation demand management measures.

**9150. SEVERABILITY.** If any provision of this Section 9000 is found to be invalid by a court of competent jurisdiction, the remainder of Section 9000 shall not be affected but shall remain in full force. The invalidity of any provision of this Section 9000 shall not affect the validity of the remainder of the Town's Zoning Bylaw.

**9200. TOWN CENTER SMART GROWTH OVERLAY DISTRICT (TCSGOD)**

**9210. TOWN CENTER SMART GROWTH OVERLAY DISTRICT ESTABLISHMENT AND SUBDISTRICTS**

**9211. ESTABLISHMENT.** The Town Center Smart Growth Overlay District, hereinafter referred to as the “TCSGOD,” is an overlay district having a land area of approximately \_\_\_ acres in size that is superimposed over the underlying zoning district (s) and is shown on the map entitled “Town Center Smart Growth Overlay District, dated \_\_\_, prepared by \_\_\_.” This map is hereby made a part of the Zoning Map and Zoning Bylaw and is on file in the Office of the Town Clerk.

The TCSGOD shall consist of the following parcel as shown on the 2022 Town of Pepperell Assessors’ Maps:

26-158-1 (59 Leighton Street)  
29-187-0 (59A Leighton Street)  
31-18-0 (41A Lowell Road)

**9220. PERMITTED USES, TCSGOD.** The following uses are permitted As-of-Right for Projects proposed under the provisions of Subsection 9200. Any other use of land or buildings in connection with a Project developed in accordance with Subsection 9200 and the Governing Laws in the TCSGOD is prohibited.

**9221. PERMITTED USES**

- a. Multifamily (See Subsection 9071 for definitions).
- b. Parking accessory to any of the above permitted uses, including surface, garage-under, and structured parking (e.g., parking garages); an
- c. Accessory uses, including home occupations, customarily incidental to any of the above permitted uses

**9230. DIMENSIONAL AND DENSITY REQUIREMENTS, TCSGOD**

**9241. RESIDENTIAL DENSITY.** The total number of units to be developed in the TCSGOD shall not exceed 180.

**9233. BUILDING PLACEMENT, SIZE, AND ORIENTATION.** The size and scale of development on a building lot, minimum and maximum height, number of buildings, and building placement shall be determined in accordance with Subsection 9071 and any applicable requirements in the Design Standards.

**9300. NASHUA ROAD SMART GROWTH OVERLAY DISTRICT (NRSGOD)**

**9310. NASHUA ROAD SMART GROWTH OVERLAY DISTRICT ESTABLISHMENT.**

Draft: 10/17/2022

The Nashua Road Smart Growth Overlay District, hereinafter referred to as the “NRSGOD,” is an overlay district having a land area of approximately \_\_\_ acres in size that is superimposed over the underlying zoning district (s) and is shown on the map entitled “Nashua Road Smart Growth Overlay District, dated \_\_\_, prepared by \_\_\_.” This map is hereby made a part of the Zoning Map and Zoning Bylaw and is on file in the Office of the Town Clerk.

The NRSGOD shall consist of the following parcel as shown on the 2022 Town of Pepperell Assessors’ Maps:

25-22-1 (37 Nashua Road)

**9320. PERMITTED USES, NRSGOD.** The following uses are permitted As-of-Right for Projects proposed under the provisions of Subsection 9300. Any other use of land or buildings in connection with a Project developed in accordance with Subsection 9300 and the Governing Laws in the NRSGOD is prohibited.

**9321. PERMITTED USES**

- a. Multifamily Building (See Subsection 9071 for definitions).
- b. Vertical or Horizontal Mixed-Use Development Projects incorporating a residential use above and any non-residential use allowable as-of-right in the Commercial (C) District as listed in Appendix A of the Zoning Bylaw, provided that the total gross floor area devoted to non-residential uses within a Mixed-Use Development Project shall not exceed 49% of the total gross floor area of the Project.
- c. Parking accessory to any of the above permitted uses, including surface, garage-under, and structured parking (e.g., parking garages);
- d. Open space and recreational uses;
- e. Outdoor amenity spaces; and
- f. Accessory uses, including home occupations, customarily incidental to any of the above permitted uses.

**9330. DIMENSIONAL AND DENSITY REQUIREMENTS, NRSGOD**

**9331. RESIDENTIAL DENSITY.** Projects in the NRSGOD may be developed as-of-right at the following residential densities:

- a. Multifamily Building (four or more dwelling units) at a maximum of 32 dwelling units per acre of Gross Buildable Land.
- b. Multifamily Building (Two-family and three-family) at a maximum of 20 dwelling units per acre of Gross Buildable Land.

- c. Residential in Mixed-Use Development Projects at a maximum density determined by the following formulas:

32 dwelling units per acre × the percentage of gross floor area occupied by the residential portion of the Project

- 9332. NON-RESIDENTIAL FLOOR AREA.** The non-residential floor area in Mixed-Use Development Projects shall be limited by Subsection 9320 and may be further limited by lot configuration, site constraints, and the Design Standards.
- 9333. BUILDING PLACEMENT, SIZE, AND ORIENTATION.** The size and scale of development on a building lot, minimum and maximum height, number of buildings, and building placement shall be determined in accordance with Subsection 9071 and any applicable requirements in the Design Standards.
- 9335. DIMENSIONAL WAIVERS.** The PAA may grant a waiver from the dimensional standards in accordance with Subsections 9073 and 9113.