

Town of Lancaster Smart Growth Overlay District Article

Article ____ To see if the Town will vote to add “North Lancaster Smart Growth Overlay District” to the Lancaster Zoning Bylaws as Section 220-8.9 of Article III, by inserting the following sections: **A. Purpose, B. Definitions,** C. Applicability of North Lancaster Smart Growth Overlay District – Scope & Authority, D. Permitted Uses, **E. Housing and Housing Affordability.** F. Dimensional and Density Requirements, G. Parking Requirements, H. Plan Approval of Projects, I. Plan Approval Procedures, J. Plan Approval Decisions, K. Change in Plans after Approval by PAA, L. Design Standards, M. Severability

§ 220-8.9: NORTH LANCASTER SMART GROWTH OVERLAY DISTRICT

A. PURPOSE.

The purpose of this Section 220-8.9 is to establish a North Lancaster Smart Growth Overlay District in order to encourage smart growth in accordance with M.G.L. Chapter 40R. The North Lancaster Smart Growth Overlay District provides housing opportunities in one or more mixed-use developments that promote compact design and pedestrian-friendly access to retail, employment, and other amenities. Additional objectives of this Section are to:

- (1) Promote public health, safety, and welfare by encouraging and increasing a diversity of housing opportunities;
- (2) Provide for a full range of housing choices for households of all incomes, ages, and sizes in order to meet diverse population needs;
- (3) Help to ensure the Town of Lancaster meets the Commonwealth's affordable housing requirement of greater than 10% deed-restricted inventory, and to sustain this level to maintain local control over the Town's affordable housing program;
- (4) Establish requirements, standards, and guidelines to ensure predictable, fair, and cost-effective review and permitting of development;
- (5) Enable the Town to receive Zoning Incentive Payments and Density Bonus Payments in accordance with M.G.L. Chapter 40R and 760 CMR 59.06 arising from the development of housing in the Smart Growth Overlay District;
- (6) Enable the Town to receive Smart Growth Educational Aid payments for school children living in residential developments within the Smart Growth Overlay District pursuant to M.G.L. Chapter 40S, which are available only for new developments in 40R Smart Growth Overlay Districts; and
- (7) To the extent not in conflict with the permissible criteria for disapproval under Section J and provisions for As-of-Right development under the Governing Laws, to generate positive tax revenue from mixed-use development where possible.

B. DEFINITIONS.

For purposes of this Section 220-8.9, the following definitions shall apply. All bolded terms shall be defined in accordance with the definitions established under the Governing Laws or Section 220-8.9, or as set forth in the Plan Approval Authority (PAA) Regulations. 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 220-8.9, 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 Bylaw that is nonetheless incorporated by reference), the terms of the Governing Laws shall govern.

AFFIRMATIVE FAIR HOUSING MARKETING PLAN – A written plan of required actions that provide information, maximum opportunity, and otherwise attract eligible persons protected under state and federal civil rights laws that are less likely to apply for affordable housing.

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.

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 Section E.(5) of this Bylaw.

AFFORDABLE RENTAL UNIT – An Affordable Housing unit required to be rented to an Eligible Household.

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

AS-OF-RIGHT – A use allowed under Section D. without recourse to a special permit, variance, zoning amendment, or other form of zoning relief. A Project that requires Plan Approval pursuant to Sections I through M shall be considered an As-of-Right Project, subject to review and approval by DHCD of any Municipal 40R regulations, guidelines, application forms, or other requirements applicable to review of Projects by the PAA under the 40R Zoning and 760 CMR 59.00.

DEPARTMENT OR DHCD – The Massachusetts Department of Housing and Community Development, or any successor agency.

DESIGN STANDARDS – Provisions of Section M made applicable to Projects within the NL-SGOD that are subject to the Plan Approval process of the PAA.

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.

FARMERS MARKET – A public market for the primary purpose of connecting and mutually benefiting mainly Massachusetts farmers, artisans, communities, and shoppers while promoting and selling locally grown, raised and/or crafted goods.

GOVERNING LAWS – M.G.L. Chapter 40R and 760 CMR 59.00.

- xv. Funeral parlor, undertaking establishments
 - xvi. Hotels, motels, inns
 - xvii. Restaurants
 - xviii. Medical clinics
 - xix. Administrative offices of non-profit organizations
 - xx. Other offices, banks
 - xxi. Art galleries
 - xxii. Outdoor storage or display of goods
 - xxiii. Manufacture, assembly, packaging or treatment of goods sold or handled on the premises in connection with the principal use
 - xxiv. Retail sales or restaurant
 - xxv. Health and fitness center
 - xxvi. Commercial indoor amusement or recreation place or place of assembly
 - (c) Parking accessory to any of the above permitted uses, including surface, garage-under, and structured parking (e.g., parking garages); and
 - (d) 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.
- (3) **Other Uses.** Any of the following non-residential uses may be permitted as-of-right, by Plan Approval:
- (a) Farmers Market or Mobile Markets

E. HOUSING AND HOUSING AFFORDABILITY.

(1) Number of Affordable Housing Units.

- (a) For all Projects containing at least 13 residential units, not less than twenty percent (20%) of housing units constructed shall be Affordable Housing.
- (b) For all projects under 13 units, the following affordable units shall be required:

Total Units	Minimum Affordable Units
6 to 9	1
10 to 12	2

For the calculation of AHU's, fractions of a dwelling unit shall be rounded up to the nearest whole number.

- (c) Unless the PAA provides a waiver on the basis that the Project is not otherwise financially feasible, not less than twenty-five percent (25%) of rental dwelling units constructed in a Project containing rental units must be Affordable Rental Units pursuant to M.G.L. Chapter 40R. 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.
- (d) Across all project sizes, whether ownership or rental, not less than eight percent (8%) of all units shall be made affordable to eligible applicants at sixty percent

(60)% AMI and the balance of the affordable units shall be restricted to eligible applicants at eighty percent (80%) AMI.

- (2) **Monitoring Agent.** The Lancaster Affordable Housing Trust, or its designee, shall be the Monitoring Agent designated by the Lancaster Select Board (“designating official”). In a case where the Monitoring Agent cannot adequately carry out its administrative duties, upon certification of this fact by the designating official or by DHCD such duties shall devolve to and thereafter be administered by a qualified housing entity designated by the designating official. In any event, such Monitoring Agent shall ensure the following, both prior to issuance of a Building Permit for a Project within the NL-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. Chapter 40R and 760 CMR 59.00, and are properly administered;
- (d) Sales and rentals are made to Eligible Households chosen in accordance with the housing marketing and resident selection plan with appropriate unit size for each household being properly determined and proper preference being given; and
- (e) Affordable Housing Restrictions meeting the requirements of this section are approved by DHCD specifically with regard to conformance with M.G.L. Chapter 40R and 760 CMR 59.00, recorded with the Worcester Registry of Deeds.

- (3) **Submission Requirements.** As part of any application for Plan Approval for a Project within the NL-SGOD submitted under Sections H through K (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:

- (a) Evidence that the Project complies with the cost and eligibility requirements of Section E.(4);
- (b) Project plans that demonstrate compliance with the requirements of Section E.(5); and
- (c) A form of Affordable Housing Restriction that satisfies the requirements of Section E.(6).

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

- (4) **Cost and Eligibility Requirements.** Affordable Housing shall comply with the following requirements:

- (a) Affordable Housing required to be offered for rent or sale shall be rented or sold to and occupied only by Eligible Households.
- (b) For an Affordable Rental Unit, the monthly rent payment, including applicable utility allowances, shall not exceed thirty percent (30%) of the maximum monthly income permissible for an Eligible Household, assuming a family size equal to the number of bedrooms in the unit plus one, 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, parking, and insurance, shall not exceed thirty percent (30%) of the maximum monthly income permissible for an Eligible Household, assuming a family size equal to the number of bedrooms in the unit plus one, unless another affordable housing program methodology for calculating rent limits as approved by DHCD applies.

Prior to the granting of any Building Permit or 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 the Town of Lancaster.

- (5) **Design and Construction.** Units of Affordable Housing shall be finished housing units. With respect to the minimum required number for a given Project, units of Affordable Housing shall be equitably integrated and proportionately dispersed throughout the residential portion of the Project of which they are part, across all residential buildings, floors and distinct unit types in accordance with the affordable housing restriction and marketing and tenant selection plan approved by DHCD and be comparable in initial construction quality, size and exterior design to the other housing units in the Project. The Affordable Housing shall be indistinguishable from the unrestricted/market-rate units. 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) **Affordable Housing Restriction.** Each Project shall be subject to an Affordable Housing Restriction which is subject to approval by DHCD and recorded with the Worcester Registry of Deeds or district registry of the Land Court, and which contains the following:
 - (a) Specification of the term of the Affordable Housing Restriction, which shall be in perpetuity or the longest time that is legally allowed;
 - (b) Name and address of the Monitoring Agent with a designation of its power to monitor and enforce the Affordable Housing Restriction;
 - (c) Description of each Affordable Homeownership Unit, if any, by address and number of bedrooms; and a description of the overall quantity, initial unit designations and number of bedrooms and number of bedroom types of Affordable Rental Units in a Project or portion of a Project that are rental. Such restriction shall

apply individually to the specifically identified Affordable Homeownership Units 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) Requirement that buyers or tenants will be selected at the initial sale or initial rental and upon all subsequent sales or rentals from a list of Eligible Households compiled in accordance with the AFHMP;
 - (f) Reference to the formula pursuant to which rent of an Affordable Rental Unit, or the maximum resale price of an Affordable Homeownership Unit, will be set;
 - (g) 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;
 - (h) Provision for effective monitoring and enforcement of the terms and provisions of the Affordable Housing Restriction (AHR) 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 municipality, in a form approved by municipal counsel, and shall limit initial sale and re-sale to and occupancy by an Eligible Household;
 - (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 municipality, in a form approved by municipal counsel, and shall limit rental and occupancy to an Eligible Household;
 - (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.
- (7) **Costs of Housing Marketing and Selection Plan.** The housing marketing and selection plan may make provision for payment by the Project applicant of reasonable costs to the Monitoring Agent to develop, advertise, and maintain the list of Eligible Households and to monitor and enforce compliance with affordability requirements.

- (8) **Age Restrictions.** Nothing in this Section 220-8.9 shall permit the imposition of restrictions on age upon Projects unless proposed or agreed to voluntarily by the Applicant. However, the PAA may, in its review of a submission under Section E.(3) allow a specific Project within the NL-SGOD designated exclusively for the elderly, persons with disabilities, or for assisted living, provided that any such Project shall be in compliance with all applicable federal, state and local fair housing laws and regulations and not less than twenty-five percent (25%) of the housing units in such a restricted Project shall be restricted as Affordable units.
- (9) **Phasing.** For any Project that is approved and developed in phases in accordance with Section H.(4), the percentage of Affordable units in each phase shall be at least equal to the minimum percentage of Affordable Housing required under Section E.(1). Where the percentage of Affordable Housing is not uniform across all phases, the unit dispersal and bedroom proportionality requirements under Section E.(5) shall be applied proportionately to the Affordable Housing provided for in each respective phase.
- (10) **No Waiver.** Notwithstanding anything to the contrary herein, the Affordability provisions in this Section E shall not be waived unless expressly approved in writing by DHCD at the request of the Plan Approval Authority.

F. DIMENSIONAL AND DENSITY REQUIREMENTS.

- (1) **Table of Requirements.** Notwithstanding anything to the contrary in this Zoning Bylaw, the dimensional requirements applicable in the NL-SGOD are as follows:

Lot Area	Minimum lot area = 44,000 square feet. At least 90% of the lot area requirement must be met without including any “wetland” as defined in M.G.L. Chapter 131, §40.
Lot Frontage	Minimum lot frontage = 100 feet.
Front Yard Setback	Not less than 30 feet.
Side & Rear Setback	Not less than 20 feet unless abutting a residential use, then the setback shall be not less than 40 feet.
Building Height	No building or portion thereof or other structure of any kind shall exceed 40 feet excluding chimneys, towers, spires, cupolas, antennas, or other projections of or attachments to a building that do not enclose potentially habitable floor space, provided that they do not exceed the height of the building by more than ten (10) feet or 20% of building height, whichever is greater.