MASSACHUSETTS DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

40R DISTRICT / ZONING APPLICATION FORM PRELIMINARY DETERMINATION OF ELIGIBILITY

Municipality: Lancaster
Name of District: North Lancaster Smart Growth Overlay District
☒ Smart Growth Zoning District (SGZD) ☐ Starter Home Zoning District (SHZD)
☐ Expedited Review (qualified SHZDs only; see corresponding checklist)

Municipal contact person:	Through December 31, 2021: Orlando Pacheco As of January 1, 2022: Jeff Nutting
Title & Department:	Town Administrator Administration & Select Board
Address:	Prescott Building – 2nd Floor 701 Main Street Lancaster, MA 01523
Phone:	(978) 365-3326 x1201
Email:	opacheco@lancasterma.net jnutting@lancasterma.net

The undersigned, chief executive of a Municipality or duly authorized designee of the Town of Lancaster hereby certifies that all information in this application is accurate and complete as of the date hereof.

Signed: _____
Name, title:
Date:

Key Data from corresponding District Summary Information Spreadsheet
Complete the Smart Growth / Starter Home Residential Density Plan/Map and Density Data Spreadsheet prior to completing this application form and before completing the accompanying District Summary Information Spreadsheet, certain cells of which will automatically populate based on information from the Density Data Spreadsheet. It is highly recommended that the municipality submit a draft Smart Growth / Starter Home Residential Density Plan/Map to DHCD for informal review and feedback prior to submission of a formal application, particularly if the Developable Land within the proposed District includes land identified as Underutilized Land. Capitalized terms used but not defined in this document have the meaning set forth in the Density Data Spreadsheet and/or 760 CMR 59.02. Where other capitalized terms first appear, there is generally a corresponding hyperlink to the definitions section in the last portion of this document. Pressing the "Ctrl" key and clicking on the back arrow symbol [↖] that appears after the linked definition will bring you back to the corresponding reference in the application form.

Type of Eligible Location (1.B, 1C, 1E or 1F): **1C**

Estimated # of Incentive Units: **674**↖

Estimated Zoning Incentive Payment:

$600,000 (plus $3,000 Density Bonus Payment per unit)

1. ELIGIBLE LOCATION

1.A **Locator Map(s).** Attach the Locator Map(s) of the proposed District, identifying the corresponding Eligible Location, proposed District, and any other portions or features of the surrounding area or Municipality that may be relevant to the category of Eligible Location and type of 40R District. For applications seeking qualification as an Eligible Location under the Area of Concentrated Development (ACD) category, the Locator Map(s) should illustrate that at least 51% of the proposed ACD is Substantially Developed Land or Underutilized Land. See corresponding definitions at the end of this document or in the Density Data Spreadsheet and/or consult DHCD).

See Attachments 1-1A, 1-1B, and 1-1C.

The purpose of the Locator Map(s) is to support the Department's finding that the District is located in an Eligible Location. As such, collectively, the Locator Map(s) should include all information necessary to illustrate that the proposed District qualifies as an Eligible Location.

For example, the Locator Map(s) for Districts intended to qualify as all or part of a Substantial Transit Access Area (STAA), must, at a minimum, clearly show that, with the exception of any qualifying Adjacent Area, at least a portion of all parcels within the proposed Smart Growth or Starter Home District are within a ½ mile or 1 mile distance, respectively, from the applicable transit facility (where further seeking qualification of an Adjacent Area(s), these distances may be extended up to an additional ½ mile, subject to applicable Infrastructure and Pedestrian Access requirements).

For Districts to qualify as within an Area of Concentrated Development (ACD), including an Existing Rural Village District (ERVD), the Locator Map(s) must clearly show the boundaries of both the proposed District and the boundaries of the applicable ACD/ERVD (i.e., area that includes the corresponding city or town center, other existing commercial district).

In addition, for Districts in certain areas to qualify under the Other Highly Suitable category, the Locator Map(s) may need to further demonstrate that such proposed Districts cannot otherwise qualify under the STAA or ACD Eligible Location

categories. Consult DHCD's program staff for any questions on how to prepare the Locator Map(s)).

1.B Substantial Transit Access Area. If the District is near to a transit station, identify the station:_____.

1.C(i) **City / Town Center or Existing Commercial District**. If the municipality is seeking eligibility of the District as located within an Area of Concentrated Development that does not qualify as an existing rural village district (see below), is the ACD currently served (yes ___ no _X__) or scheduled to be served within five years of the application (yes _X__ no ___) by public sewer(s) and/or private sewage treatment plant(s)?

If the ACD is scheduled to be served by public sewer(s) and/or private sewage treatment plant(s), provide documentation in Attachment 7-1. Note that for Starter Home Zoning Districts, the District itself need not be served or scheduled to be served by public sewer(s) and/or private sewage treatment plant(s), so long as the associated ACD is so served or scheduled to be served (unless otherwise qualified as an existing rural village district).

Briefly describe/summarize the primary current use and zoning *(consistent with the Underlying Zoning, see Attachments 2-1 & 2-2)* of land and buildings in both the ACD and the proposed District:__

The Underlying Zoning in the proposed North Lancaster SGOD is categorized as Enterprise District, EZ-A Retail Sub-District, and Integrated Planning Overlay District (IPOD). The Enterprise District only allows residential development of a senior living facility and commercial retail, service, and office uses, as well as some industrial uses with a special permit. The IPOD allows residential dwellings at a maximum of 15 units per acre and commercial uses, but also requires 10 acres minimum per project. There are currently no residential uses in the proposed SGOD. Current uses in the proposed District are commercial in nature, with a coffee shop, gas station, soccer fields, and storage of trucking containers and storage pods. All of the parcels have been cleared and are previously disturbed.

(Note: see corresponding regulatory definition of ACD which must include a city or town center or other contiguous, previously developed portions of an existing commercial district where such portions are substantial in the context of the Municipality.)

Is the District within land designated as a commercial center under M.G.L. c.40, § 60 (yes ___ no _X__)?
If yes, attach a copy of the designation document from DHCD as Attachment 1-2.

1.C(ii) **Existing Rural Village District.** If the District comprises part or all of what would otherwise qualify an ACD, but the area is not served or scheduled to be served within five years of the application by public sewer(s) and/or private sewage

treatment plant(s), does the area include the Municipality's principal road intersection or other civic center point of the Municipality, preliminarily approved by DHCD (yes ___ no ___)?

Does it contain two or more of a town hall, post office, public library, public school, or public safety facility (yes ___ no ___)?
If yes, identify the facilities that it contains:_____.

Does it contain an existing village retail district (yes ___ no ___)?
If yes, briefly describe its characteristics:_____.

1.D **Adjacent Areas**. For Districts proposed as comprising part of all of the land within a STAA or ACD, does the District contain an Adjacent Area (yes ___ no _X__)? *(Note: Adjacent Areas are not applicable to Districts qualifying as Eligible Locations under 1.E or 1.F)*

If yes, identify in detail, as part of the Locator Map(s) requirement, and briefly describe the Pedestrian Access:
Is the Adjacent Area currently served (yes ___ no _ __) or planned to be served within five years of the application (yes ___ no ___) by the Infrastructure necessary to support the units that will be allowed under the SGZ or SHZ (note: for SHZDs this need not include public sewer(s) and/or private sewage treatment plant(s))?
If the Adjacent Area is scheduled to be served by any applicable Infrastructure that does not currently exist, provide documentation in Attachment 7-1.

1.E **Starter Homes (additional Eligible Location).** For a proposed SHZD, if the location of the proposed SHZD is not otherwise eligible as a Highly Suitable Location:

- Is the associated land nonetheless zoned for residential use (yes___ no___);
- Is there Pedestrian Access for a distance of no more than ¾ mile from proposed SHZD to a Pedestrian Destination (yes___ no___);
- Does the Starter Home Zoning incorporate Cluster Zoning (yes___ no___) so as to permit Cluster Development; and
- Does the SHZ require all development to utilize Low Impact Development Techniques and include features that encourage walking within Starter Home Projects and the SHZD as a whole (yes___ no___).

1.F **Other Highly Suitable Location (OHSL)**. Has the District been identified as an appropriate locus for high-density housing or mixed-use development in a state or regional plan document (yes ___ no _X__)?
If yes, attach a copy of the plan as Attachment 1-3 and identify and describe briefly the section(s): _____.

Further describe how the proposed District qualifies as an OHSL in relation to the various criteria and factors specified in sub-sections (a)4., b. through e. and (b) 1. through 4. under 760 CMR 59.02 Highly Suitable Location and, as applicable, any

other factors that the municipality believes support the case that residential or Mixed-use Development in the area of the proposed District would nonetheless promote Smart Growth consistent with the statutory goals for Smart Growth set forth in M.G.L. c.40R §1. Provide as a statement to be attached as Attachment 1-5).:_

The proposed Smart Growth Overlay District meets 760 CMR 59.02 pursuant to "Highly Suitable Location" Sections (a)4a-d and (b)1, 3, and 4.
See Attachment 1-5.

2. UNDERLYING ZONING

2.A **Underlying Zoning**. Attach a copy of the text and map(s) as Attachments 2-1 and 2-2, respectively. The Underlying Zoning must be certified by the municipal clerk and the municipal clerk must also certify that such zoning was in effect one year prior to the application date. The Underlying Zoning provides the basis for determining the existing As-of-right residential densities and units that must be provided in the Density Data Spreadsheet.

See Attachments 2-1 and 2-2.

3. SMART GROWTH RESIDENTIAL DENSITY PLAN/MAP(S) & DENSITY DATA SPREADSHEET

3.A **Smart Growth Residential Density Plan/Map(s).** Attach the Smart Growth Residential Density Plan/Map(s) of the District as Attachment 3-1. The purpose of the Plan is to provide a summary illustration of the number of Existing Zoned, Future Zoned and Incentive/estimated Bonus Units on a parcel-by-parcel basis on the Developable Land / Underutilized Land and, as applicable, Substantially Developed Land, throughout the proposed District. The land plan/map should distinguish between parcels (or portions thereof) qualifying as Developable/ Underutilized Land and land that is considered Substantially Developed Land as defined in the regulations. If impractical, it is not necessary to include the corresponding unit numbers on the land plan/map, so long as individual parcels are uniquely identified and correspond to the parcel information provided in the Density Data Spreadsheet. Depending upon the scale and complexity of the proposed District, conveying this information clearly may involve more than one land plan/map. Attach the Smart Growth Residential Density Plan/Map(s) as Attachment 3-1. For Smart Growth Zoning District applications seeking qualification as an Eligible Location under the Area of Concentrated Development category, the Smart Growth Residential Density Plan/Map should illustrate that at least 51% of the proposed District is Substantially Developed Land or Underutilized Land.

See Attachment 3-1.

3.B **Density Data Spreadsheet.** Attach the Density Data and District Summary Information Spreadsheets as Attachments 3-2 and 3-3.
The purpose of these spreadsheets is to calculate and document the number of Future Zoned and Incentive Units. These spreadsheets will also be used to estimate the number of potential Bonus Units as well as the amount of the Zoning Incentive Payment.

See Attachments 3-2 and 3-3.

4. SMART GROWTH/STARTER HOME ZONING, DESIGN STANDARDS & ADDITIONAL MUNICIPAL STANDARDS

4.A **Smart Growth / Starter Home Zoning**. Attach a copy of the text and map(s) for the Smart Growth Zoning applicable to the District as Attachments 4-1 and 4-2.
The copy of the proposed SGZ text should be provided as an MS Word file with all changes to the most recent SGZ/SHZ template red-lined / made visible with track changes.

See Attachments 4-1 and 4-2.

4.B **Mixed-use Development.** Does the Smart Growth / Starter Home Zoning allow Mixed-Use Development Projects As-of-right (yes __X_ no ___)?
If yes, what is the minimum portion of such Mixed-use Development Projects that must be devoted to residential uses: _51%____? (this percentage must be used to calculate the minimum number of residential units that would be developed on parcels that will allow Mixed-use Development. If the proposed SGZ/SHZ will allow non-residential use outside of such Mixed-use Developments, the SGZ/SHZ must establish an overall minimum of the estimated developable square footage that will be devoted to residential use and overall maximum cap on developable square footage that can be devoted to non-residential use in order to calculate the number of Incentive Units which will be based on the minimum share of the developable square footage that must be devoted to residential use.)

4.C **Substantially Developed Sub-districts.** Does the Smart Growth / Starter Home Zoning contain any Substantially Developed sub-district(s) within the District where maximum As-of-right residential densities differ from those applicable to the Developable Land sub-district(s) (yes ___ no _X__)?
If yes, state the maximum As-of-right residential densities within such sub-district(s): _____ units/acre.

Identify the provisions of the Smart Growth / Starter Home Zoning that ensure the construction of infill housing on existing residential vacant lots: _NA____.

For SGZDs, identify the provisions of the SGZ that permit additional housing units in existing residential buildings and permit additional housing units for additions or replacement of such buildings: _NA____.

4.D **Affordability - Project requirements** For SGZDs only, does the SGZ establish a project-size threshold (e.g., 13 units) for Projects that are subject to the SGZ Affordability requirement (yes _X__ no ___)?
If yes, what is that unit # threshold (cannot exceed 13) and identify the section of the SGZ containing that requirement:
(the SGZ can only exempt Projects of 12 or fewer units from the Affordability requirements)

13 units; See §220-8.9E.(1).

For SGZD only, does the SGZ contain provisions to ensure that Projects are not segmented to evade the size threshold for Affordability (yes _X__ no ___)?
If yes, identify the section of the SGZ containing such provision:

See §220-8.9E.(1).

4.E **Affordability - District-wide Affordability target.** For SGZDs only, identify the provisions of the SGZ that ensure the total number of Affordable units constructed in the District equals not less than twenty percent (20%) of the total number of all units constructed within Projects in the District:

See §220-8.9E.(1).

The following questions refer to the SGZ/SHZ attached as Attachment 4-1, or the Design Standards attached as Attachment 4-3.

4.G **Categories of Project; Plan Approval Authority.** Does the SGZ/SHZ provide for Plan Review of Projects within the District (yes _X__ no ___)?
If yes, who is the Plan Approval Authority: _

The Plan Approval Authority consists of one (1) member from each of the Planning Board, Zoning Board of Appeals, Conservation Commission, Affordable Housing Trust, and Economic Development Committee.

4.H **Design Standards.** Does the SGZ/SHZ contain Design Standards (yes _X__ no ___)?
If no, have separate Design Standards been promulgated or drafted (yes ___ no ___)?
If yes, attach a copy as Attachment 4-3.

Have these Design Standards been previously applied to Affordable or mixed-income residential development in the community (for example, through the Underlying Zoning) (yes ___ no _X__)?
If yes, briefly identify the project(s) that have been approved using these standards: _____.

Describe how the Municipality will ensure that its Design Standards will not Unreasonably Impair the development of Projects in the District:

The design standards in the SGZ are broad in nature and nothing specific enough to unreasonably impair development within the proposed SGZ.

4.I **Waivers.** Does the SGZ/SHZ allow the Plan Approval Authority, through the Plan Review process, to waive specific dimensional and other standards (other than Affordability requirements) otherwise applicable to a Project (yes _X__ no ___)?

4.J **Phased Project Reviews.** Does the SGZ/SHZ permit the Plan Review approvals of proposed Projects to be phased for the purpose of coordinating development with the construction of Planned Infrastructure upgrades that are identified in the application (yes _X__ no ___) or that are required to mitigate any extraordinary adverse Project impacts on neighboring properties (yes _X__ no ___)?

For Projects that are approved and developed in phases, identify the provisions of the SGZ/SHZ requiring that the percentage of Affordable units in each such phase is no less than the minimum percentage required for the Project as a whole:

See §220-8.9 H(4).

4.K **Additional Municipal Standards.** (For Starter Home Zoning Districts only) Will any Additional Municipal Standards apply to development that proceeds under the Starter Home Zoning (yes ___ no ___)? If yes, include copies of the Additional Municipal Standards as Attachment 4-4, together with one of the following, as applicable, as Attachment 4-5:

1. A Developer Certificate of Feasibility with respect to Additional Municipal Standards; or
2. Documentation demonstrating that such Additional Municipal Standards do not Render Development Infeasible, certified by a Municipal official, civil engineer or other individual with appropriate expertise to evaluate and opine as to the feasibility of such development; or
3. Documentation substantiating the circumstances the Municipality asserts warrant the imposition of Additional Municipal Standards on development under the Starter Home Zoning in the proposed District, which shall be certified by a Municipal engineer or by a public works, board of health or

conservation commission official with relevant expertise, unless otherwise substantiated in accordance with guidance issued by DHCD.

5. HOUSING PLAN REQUIREMENT

Subject to the requirements below, the housing plan requirement can generally be satisfied with a current Comprehensive Housing Plan (or acceptable equivalent) or current (i.e., approved by DHCD within the past 5 years) Housing Production Plan. DHCD has active Housing Production Plans on file, so there is no need to resubmit such plans. Comprehensive Housing Plans (or equivalent plans) should be attached as Attachment 5-1. Municipalities that do not have such plans can fulfill the housing plan application requirement by completing a Housing Production Summary. While any municipality can submit a Housing Production Summary, submission is only necessary and considered for the purposes of satisfying the housing plan requirement if the municipality does not have valid Comprehensive Housing Plan (or acceptable equivalent plan) or Housing Production Plan.

See Attachment 5-1.

For Comprehensive Housing Plans or equivalent municipal plans, please confirm the following plan components:

☐ Housing needs within the Municipality (including the needs of households in protected classes). If covered, where in the plan can this be found:

Housing Production Plan Executive Summary Item H, page 4; and Section III Housing Goals and Objectives, page 37.

☐ Housing Strategies (including strategies for the development of housing that serves and provides housing choice for those in protected classes): If covered, where in the plan can this be found:

Housing Production Plan Chapter IV, pages 41-46.

For Housing Production Plans, Comprehensive Housing Plans or equivalent municipal plans, please confirm the following plan components:

☐ An explanation of how the proposed SGZ/SHZ will allow for the development of housing which is appropriate for a diverse population. If covered, where in the plan can this be found:

Not covered in Housing Production Plan.

If any these components are not covered in the submitted plan, please provide an addendum to the plan that addresses the missing component(s) and attach as

Attachment 5-2.

See Attachment 5-2.

M.G.L. c. 40R additionally requires that the plan that summarize the Existing Zoned Units, Future Zoned Units, and Incentive Units of the proposed Smart Growth Zoning District. Because many otherwise valid housing plans will not contain this level of specificity and because certain figures/information provided in the application may be revised in the course of DHCD preliminary determination of eligibility, as part of any Final or Conditional Approval of an adopted District, the municipality will need to submit evidence that its housing plan has been amended to incorporate the preliminarily-approved SGZ/SHZ and the corresponding application for preliminary determination of eligibility, as ultimately accepted and approved by DHCD.

6. LOCAL PUBLIC NOTICE AND HEARING

6.A **Public Hearing**. Did the chief executive of the Municipality or designee hold a public hearing on the application as submitted to DHCD (including the draft SGZ/SHZ) for a preliminary determination of eligibility for the proposed Smart Growth District (yes _X__ no ___)?
If yes, attach copies of the notice of the hearing as Attachment 6-1.

See Attachment 6-1.

(note: this hearing should not be confused with or seen as a substitute for hearings that are otherwise required as part of the local zoning adoption process which should commence <u>after</u> DHCD has issued a Letter of Eligibility)

6.B **Public Comments.** Attach copies of any written comments received by the Municipality on the proposed SGZ/SHZ and the District, including any letters of support/concern issued by the planning board, board of health, conservation commission, or other interested parties, as Attachment 6-2.

See Attachment 6-2.

Attach any transcript or a summary of any oral comments received by the Municipality at the public hearing as Attachment 6-3.

See Attachment 6-3.

Summarize briefly any modifications that were made in the proposed SGZ/SHZ or other documents in response to the comments received: _____,

7. INFRASTRUCTURE IMPACTS AND UPGRADES

In order for a proposed District to ultimately receive Final (vs. Conditional) Approval and qualify for all or a portion, as applicable, of any corresponding Zoning Incentive Payment, the Municipality must document and certify that the impacts of Future Zoned Units within the District will not over burden transportation, water, public and/or private wastewater systems, and other relevant Infrastructure, as it exists or may be practicably upgraded. The purpose of this requirement is both to ensure consistency with Smart Growth principles by supporting growth in areas with sufficient existing or Planned Infrastructure and to ensure that any required Infrastructure that does exist or is insufficient and cannot be practicably upgraded is identified and addressed before the Department issues any associated Zoning Incentive Payment(s).

The attachment must be certified by a municipal engineer or public works official.

See Attachment 7-1.

Check List of Attachments
Identify documents submitted with the Smart Growth / Starter Home application in the following manner:

Submitted?	Attachment #	Description
☒	1-1 ***Provided as** **1-1A** **1-1B** **1-1C**	Locator Map(s) of the Municipality, including, as applicable, a map showing the relationship of the proposed District to the applicable Area of Concentrated Development (required)
☐	1-2	Copy of designation letter under M.G.L. c.40, § 60 (if applicable under I.D)
☐	1-3	Copy of relevant portions of plan document (if applicable under 1.G)
☐	1-4	Copy of designation letter under M.G.L. c.40Q (if applicable under 1.G)
☐	1-5	Evidence of District's consistency with statutory goals for smart growth (if applicable under 1.G)
☒	2-1	Underlying Zoning Text (required)
☒	2-2	Underlying Zoning Map(s) (required)
☒	3-1	SG / SH Residential Density Plan/Map(s) of District (required)
☒	3-2	Density Data Spreadsheet (required)

☒	3-3	District Summary Information Spreadsheet (required)
☒	4-1	Smart Growth Zoning / Starter Home Zoning
☒	4-2	Smart Growth/Starter Home Zoning Map(s) (required)
☐	4-3	Design Standards (if not contained within Smart Growth Zoning)
☐	4-4 & 4-5	Additional Municipal Standards and associated documentation (SHZDs only)
☒	5-1	Comprehensive Housing Plan, Housing Production Plan or Housing Production Summary (required)
☒	5-2	Plan enhancements/ updates (if applicable)
☒	6-1	Notice of public hearing (required)
☒	6-2	Written comments on Smart Growth Zoning and District (required)
☒	6-3	Summary or transcript of oral comments on Smart Growth Zoning and District (required)
☒	7-1	Information on Infrastructure impacts and Planned Infrastructure upgrades, certified by municipal official (required)

EXPEDITED APPLICATION PROCESS FOR QUALIFIED STARTER HOME ZONING DISTRICTS ONLY PURSUANT TO 760 CMR 59.03(2)

Qualification. In order to qualify for the expedited eligibility determination process pursuant to 760 CMR 59.03(2), a proposed Starter Home Zoning District must either meet the requirements in Qualifications A through F below, or must meet the requirements in Qualifications A through E plus the additional requirements in Qualifications G and H below. ↖

A. Does the Starter Home Zoning conform substantially to the DHCD Starter Home Zoning template, to be submitted, with all changes indicated, with this application (yes___ no___)?

B. Does the Starter Home Zoning District allow for no more than thirty (30) Starter Homes in the District (yes___ no___)?

C. Does the Starter Home Zoning District require that each Starter Home in the District contain at least three (3) bedroom (yes___ no___)?

D. Does the Starter Home Zoning District utilize Low Impact Development Techniques / Best Practices (yes___ no___)?

E. Does the Starter Home Zoning District utilize best practices for roadway and subdivision design (yes___ no___)?

F. Is this Application accompanied by a Developer Certificate of Feasibility (yes___ no___)?

G. If this Application is not accompanied by a Developer Certificate of Feasibility, do the Starter Home Zoning District Design Standards address no more than size and location of garages/carports, decks, or other non-living area structures associated with a Starter Home or Accessory Dwelling Unit (yes___ no___)?

Key Definitions from 760 CMR 59.02

Additional Municipal Standards. A Municipal environmental or health ordinance, bylaw or regulation that exceeds applicable requirements of state law or regulation. ↖

Adjacent Area. An area that (1) is physically contiguous to an Eligible Location qualifying as a Highly Suitable Location under 760 CMR 59.04(1)(a)1. through 3.; (2) extends to a distance no more than ½ mile from an Eligible Location, except that if only a portion of a parcel of land lies within such a distance, the entire parcel may be included in the Adjacent Area; and (3) provides Pedestrian Access to a qualifying Eligible Location. To qualify as an Adjacent Area, the area must be currently served by Infrastructure or planned to be served within five years of the 40R Zoning Application by Planned Infrastructure. With respect to Starter Home Zoning Districts only, the Infrastructure or Planned Infrastructure required in an Adjacent Area need not include public sewer(s) or private wastewater treatment plant(s). ↖

Area of Concentrated Development.

(a) An area:

(1) That includes a city or town center; contiguous, previously developed portions of an existing commercial district that are substantial in the context of the Municipality; or a rural village district; the boundaries of which are clearly identified and submitted on a corresponding map;

(2) That, except in the case of an existing rural village district as set forth in 760 CMR 59.02: Area of Concentrated Development (b), is currently served or scheduled to be served (as shown by sufficient documentation) within five years of the 40R Zoning Application by public sewer(s) and/or private sewage treatment plant(s) (applicable to Smart Growth Zoning Districts only);

(3) Of which at least 50 percent of the total land area is either Substantially Developed Land or Underutilized Land; and

(4) Of which the primary current use (or, in the case of Underutilized Land, the primary current zoning) of land and/or buildings is commercial (including retail, office, or industrial businesses) or mixed-use. Land designated as a commercial center under M.G.L. c. 40, § 60 qualifies as an Area of Concentrated Development.

(b) Notwithstanding anything to the contrary in this definition, in areas that are not sewered or scheduled to be sewered, an existing rural village district will still qualify as an Area of Concentrated Development if:

1. it includes the Municipality's principal road intersection or other civic center point of the Municipality approved by DHCD and is characterized by the most Substantially Developed portions of the surrounding village area plus any land that would otherwise qualify as Substantially Developed Land or Underutilized Land within up to ½ mile distance of such principal road intersection or other approved civic center point;

2. it contains two or more of a town hall, post office, public library, public school, or public safety facility, or it contains an existing village retail district; and

3. at least 50 percent of the total land area within the existing rural village district is either Substantially Developed Land or Underutilized Land. *See* 760 CMR 59.04(1)(a)2. ↖

Cluster Development. Development in which the buildings and associated roadways or parking are clustered together into one or more groups separated from adjacent property and/or other groups within the development by intervening Dedicated Open Space usable for passive or active recreational activities. ↖

Cluster Zoning. Zoning in which (a) development density is determined for an entire specified area, rather than on a per-lot basis and (b) dimensional requirements such as lot area, frontage, setbacks of structures from lot lines and/or other structures and minimum lot area per dwelling unit are reduced for individual lots to allow concentration of construction on part of the land through Cluster Development, and which requires permanent conservation of Dedicated Open Space usable for passive or active recreational activities, including without limitation, Future Open Space, as provided in DHCD guidance. ↖

Comprehensive Housing Plan. A document, prepared by a Municipality for review by DHCD, providing an assessment of the housing needs within the Municipality, and describing specific strategies, including but not limited to those contained in the 40R Zoning, to address these needs and ensure that the applicable approval standards of 760 CMR 59.04(1)(g), (i), (j) and (k) are satisfied. The Comprehensive Housing Plan shall identify the numbers of Existing Zoned Units, estimated Future

Zoned Units, and estimated Incentive Units within the proposed District. A Comprehensive Housing Plan may be a community development plan, master plan, area specific plan, or equivalent Municipally prepared document that is supplemented as necessary to satisfy these requirements, as well as the requirements of 760 CMR 59.03(1)(h)1., regarding the proposed 40R Zoning. ↖

Design Standards. Provisions of, or regulations adopted pursuant to, 40R Zoning, which are made applicable to Projects within the District that are subject to Plan Review by the Plan Approval Authority. *See* 760 CMR 59.04(1)(f). ↖

Developer Certificate of Feasibility. Certification by a developer with Site Control, or by an architect, engineer or other professional with appropriate expertise certifying on behalf of such developer, that (a) any Additional Municipal Standards applicable to development under the Starter Home Zoning do not Render Development Infeasible and/or (b) any Design Standards do not Unreasonably Impair development within the District. ↖

Eligible Location. An area within a Highly Suitable Location that qualifies under the criteria set forth in 760 CMR 59.04(1)(a). If a portion of a parcel of land falls within an Eligible Location, then all of such parcel, to the extent of its legal boundaries, may also be deemed an Eligible Location in the discretion of DHCD. (↖)

Highly Suitable Location. A location that, as determined by DHCD based on satisfactory documentation provided by the Municipality, is consistent with the statutory goals for Smart Growth, including the production of Starter Homes, set forth in M.G.L. c. 40R, § 1 and 760 CMR 59.00.

(a) To qualify as a Highly Suitable Location, an area must, at a minimum, be one of the following:

1. within a Substantial Transit Access Area;

2. within an Area of Concentrated Development;

3. for Starter Homes, an area zoned for residential use that is not otherwise eligible to be a Highly Suitable Location, only if all or a portion of the Starter Home Zoning District has Pedestrian Access within a distance of no more than ¾ mile to a Pedestrian Destination and the Starter Home Zoning incorporates Cluster Zoning so as to permit Cluster Development, and requires all development under the Starter Home Zoning to utilize Low Impact Development Techniques and to include features that encourage walking within Starter Home Projects; or

4. a location, not otherwise eligible to be a Highly Suitable Location, where residential or Mixed-use Development would nonetheless promote Smart Growth,

as demonstrated by the Municipality through documentation satisfactory to DHCD, demonstrating the degree to which:

a. the location is near a rapid transit or commuter rail station or bus or ferry station terminal, though not within a Substantial Transit Access Area;

b. the location has Pedestrian Access within a distance of ¾ mile to a Pedestrian Destination;

c. proposed zoning in the location and existing zoning near the location will encourage compact, land-use-efficient design, and Mixed-use Development;

d. infill and redevelopment of previously-developed areas with Infrastructure are likely to occur that will help to preserve open space, farmland, natural beauty, and critical environmental areas elsewhere in the Municipality; and

e. prior identification as an appropriate locus for higher-density housing or higher-density Mixed-use Development in an adopted regional or state plan.

(b) Factors DHCD may consider in determining whether a location that does not qualify under 760 CMR 59.04(1)(a) as being either within a Substantial Transit Access Area or an Area of Concentrated Development is nonetheless a Highly Suitable Location for a District include, without limitation, the extent to which the area is characterized by:

1. Infrastructure, including access to public facilities for storm water and wastewater transport, treatment and disposal and public water supply;

2. Multi-modal Access;

3. Existing Underutilized Facilities; or

4. a location within or immediately adjacent to a Priority Development Area.

> (c) An area will not qualify as a Highly Suitable Location if more than 50% of the proposed District contains Prime Farmland Soils on state-owned land. If more than 50% of a proposed District has Prime Farmland Soils that are not state-owned, DHCD may take into account the availability of other potential Highly Suitable Locations in the Municipality, and may request additional information from the Municipality, to determine whether the proposed District qualifies as a Highly Suitable Location.
>
> (d) DHCD may from time to time issue guidance as to other factors that are relevant to the determination of whether a location is Highly Suitable. ↖

Housing Production Plan. An affordable housing plan adopted by a Municipality and approved by DHCD in accordance with 760 CMR 56.03(4). ↖

Housing Production Summary. A detailed summary, consistent with guidance and/or templates issued by DHCD regarding format and content, of the Municipality's: (1) affordable housing production history; (2) housing needs and housing demand assessment; (3) analysis of development constraints and capacity; (4) current housing goals and strategy for achieving those goals; and (5) proposed locations for affordable housing production. ↖

Infrastructure. The basic facilities, services, and installations needed for the functioning of the area of the Municipality within which the District is to be located, including: Pedestrian Access and vehicular access; public and private facilities for storm water and wastewater transport, treatment and disposal; and water and power supply lines. For purposes of a Starter Home Zoning District only, Infrastructure shall not be required to include public sewer and/or public water supply. ↖

Low Impact Development Techniques. Development techniques suitable to a particular site that protect the natural features of the site, including, without limitation, (a) natural resource oriented site design, (b) appropriately scaled and decentralized stormwater management techniques that limit the rate of off-site storm water runoff (both peak and non-peak flows) to levels substantially similar to natural hydrology (or, in the case of a redevelopment site, that reduce such flows from pre-existing conditions), through means including, bioretention/rain gardens, infiltration/permeable pavements, stormwater planters, vegetated swales, vegetated buffers, cisterns, rain barrels, and green roofs; and (c) appropriately scaled roads. MassGIS. The Massachusetts Office of Geographic Information. ↖

Mixed-use Development. A Project containing: (a) for Smart Growth Zoning Districts, a mix of Multi-family Residential, two- and three-family residential, or single-family residential uses, together with commercial, institutional, industrial, or other non-residential uses; or (b) for Starter Home Zoning Districts, a mix of any Starter Home units with commercial, institutional, industrial, or other non-residential uses; in which the applicable residential densities set forth in 760 CMR 59.04(1)(d)3. and 760 CMR 59.04(1)(d)4., respectively, apply proportionally to the residential portion of the Mixed-use Development Project in accordance with 760 CMR 59.04(1)(d)1. ↖

Pedestrian Access. Safe, practical and continuous access for walking by means of a sidewalk, path, or a roadway with a design speed of 20 miles per hour or less. ↖

Pedestrian Destination. A location that pedestrians frequently use, such as an elementary or high school; a college or university; a hospital; a Municipal office building, public library, post office, public safety facility, or other civic facility; a

general or neighborhood commercial or business area with substantial employment, retail or entertainment activity; an active recreational facility open to the public; public transit or a bus stop along a route serving an Eligible Location or Adjacent Area at a minimum of hourly frequency during peak periods. ↖

Plan Approval Authority or **Approving Authority**. A unit of Municipal government designated by the Municipality to review projects and issue approvals under M.G.L. c. 40R, § 11. *See* 760 CMR 59.04(1)(f). ↖

Plan Review. The standards and procedures by which a proposed Project within a District is made subject to review by the Plan Approval Authority under the provisions of the 40R Zoning, in accordance with M.G.L. c. 40R, § 11 and 760 CMR 59.00. *See* 760 CMR 59.04(1)(f). ↖

Planned Infrastructure. Infrastructure for which certification by a Municipal engineer or public works, board of health or conservation commission official or other person with similar expertise pursuant to 760 CMR 59.03(1)(j) has been submitted to establish the timing for completion of the improvements (to be within five years of the 40R Zoning Application date, or other reasonable time period approved by DHCD), the identity of the entities responsible for completing the improvements, and that the District will not be overburdened by the build-out of the Future Zoned Units within the District as the Infrastructure exists or may be practicably upgraded. ↖

Project. A residential development or Mixed-use Development undertaken within a District pursuant to the approval of a Plan Approval Authority in accordance with the requirements of the 40R Zoning. Within the boundaries of a District a developer may elect either to develop a Project in accordance with the requirements of the 40R Zoning, or to undertake development in accordance with the requirements of the Underlying Zoning. ↖

Render Development Infeasible. To prevent or make physically or economically impracticable the development of residential or Mixed-use Development Projects at the As-of-right residential density set forth in the Starter Home Zoning. ↖

Site Control. Fee ownership of, a long-term leasehold interest in, or a right to develop one or more sites that, in the aggregate, comprise at least 50% of the Developable Land Area of a proposed Starter Home Zoning District. Site Control shall be demonstrated, as to each such site, by means of one or more of the following: a recorded deed; a lease with a term of at least 30 years, as to which a notice of lease has been recorded; or an executed, legally enforceable purchase agreement or option to purchase. ↖

Smart Growth. A principle of land development that furthers, on balance, the following goals set forth in M.G.L. c. 40R, § 1 and 760 CMR 59.00:

(a) Increasing the availability of Affordable housing by creating a range of housing opportunities in neighborhoods;

(b) Emphasizing mixing land uses;

(c) Taking advantage of compact design;

(d) Fostering distinctive and attractive communities;

(e) Preserving open space, farmland, natural beauty and critical environmental areas;

(f) Strengthening existing communities;

(g) Providing a variety of transportation choices;

(h) Making development decisions predictable, fair and cost effective; and

(i) Encouraging community and stakeholder collaboration in development decisions. ↖

Substantial Transit Access Area. A location that comprises:

(a) In the case of a Smart Growth Zoning District, part or all of the land located within ½ mile distance of any rapid transit or commuter rail station, bus or ferry terminal (measured from the entry point(s) to the passenger platforms); and

(b) In the case of a Starter Home Zoning District, part or all of the land located within a 1 mile distance of any rapid transit or commuter rail station, bus or ferry terminal (measured from the entry point(s) to the passenger platforms). ↖

Unreasonably Impair. To add unreasonable costs or unreasonably diminish the economic feasibility of proposed Projects in a District by means of a provision of 40R Zoning or a Design Standard. ↖