

To be added to Section 4.12 of the Town of Reading Zoning By-Laws

#### **4.12. DOWNTOWN SMART GROWTH DISTRICT (“the DSGD”)**

##### **4.12.1 Purposes**

The purposes of the Downtown Smart Growth District are:

- (1) To provide an opportunity for residential development and to especially encourage mixed-use development, including both new construction and renovation of existing buildings, within a distinctive, attractive and livable environment that supports the commercial revitalization of Downtown Reading.
- (2) To promote continuing development and redevelopment in Downtown Reading that is pedestrian friendly and consistent with Reading history and architecture.
- (3) To ensure high quality site planning, architecture and landscape design that enhances the distinct visual character and identity of Downtown Reading and provides an environment with safety, convenience and amenity.
- (4) To provide for a diversified housing stock at a variety of costs within walking distance of services and public transportation, including affordable housing and other housing types that meet the needs of the Town’s population.
- (5) To generate positive tax revenue for the Town, and to benefit from the financial incentives provided by Mass. Gen. Laws Ch. 40R, while providing the opportunity for new business growth and additional local jobs.
- (6) To encourage preservation and rehabilitation of historic structures and buildings.
- (7) To promote efficient use of land and existing parking supply and limit expansion within the district by encouraging shared parking.
- (8) To encourage adoption of energy efficient building practices and sustainable construction methods.
- (9) To ensure compliance with the Massachusetts Department of Environmental Protection stormwater management policies and practices.

##### **4.12.2 Definitions**

As used in this Article, the following terms shall have the meanings set forth below:

**ACCESSORY BUILDING** – A detached building the use of which is customarily incidental and subordinate to that of the principal building or buildings and which is located on the same lot. An Accessory Building shall not be used to house people, domestic animals or livestock, nor shall it be used as an independent commercial enterprise. An Accessory Building located within 10 feet of a principal building shall be subject to the dimensional requirements applicable to the principal building.

**AFFORDABLE HOMEOWNERSHIP UNIT** – A dwelling unit required to be sold to an Eligible Household per the requirements of this Section 4.12.

**AFFORDABLE HOUSING RESTRICTION** – A deed restriction of an Affordable Unit meeting statutory requirements in Mass. Gen. Laws Ch.184 §31 and the requirements of §4.12.10 of this Article.

**AFFORDABLE RENTAL UNIT** – A dwelling unit required to be rented to an Eligible Household per the requirements of §4.12.10.

**AFFORDABLE UNIT** – The collective reference to Affordable Homeownership Units and Affordable Rental Units.

**ANNUAL UPDATE** – A list of all approved and currently proposed Smart Growth Districts within the Town of Reading, to be filed on or before July 31<sup>st</sup> of each year with the Massachusetts Department of Housing and Community Development pursuant to Mass. Gen. Laws Ch. 40R and applicable regulations.

**APPLICANT** – A landowner or other petitioner who files a plan for a Development Project subject to the provisions of this Section 4.12.

**APPROVING AUTHORITY (AA)** – The Community Planning and Development Commission (CPDC) of the Town of Reading acting as the authority designated to review projects and issue approvals under this Section 4.12.

**AA REGULATIONS** – The administrative rules and regulations adopted by the AA pursuant to Section 4.12.11.

**AS-OF-RIGHT DEVELOPMENT** – A Development Project allowable under this Section 4.12 without recourse to a special permit, variance, zoning amendment, or other form of zoning relief. A Development Project that is subject to the Plan Review requirement of this Section 4.12 shall be considered an As-of-right Development.

**CONSUMER SERVICES** – A barber shop, dry cleaning or laundry establishment, photographer's shop or studio or similar business where service is provided directly on the premises.

**DESIGN STANDARDS** – The document entitled Downtown Smart Growth District Design Standards and Guidelines, dated October 2, 2009 and approved by the Massachusetts Department of Housing and Community Development on October 31, 2009, as amended, pursuant to Mass. Gen. Laws Ch. 40R § 10 and applicable regulations. Said Design Standards shall be applicable to all Development Projects within the DSGD that are subject to Plan Review by the Approving Authority.

**DEVELOPMENT PROJECT or PROJECT** – A residential or mixed use development undertaken under this Section 4.12. A Development Project shall be identified as such on the Plan which is submitted to the Approving Authority for Plan Review.

**DWELLING UNIT** — A structure or a portion of a structure containing in a self sufficient and exclusive manner facilities for sleeping, bathing, and cooking, including one full kitchen and full bathroom facilities as defined by the Massachusetts State Building Code.

**ELIGIBLE HOUSEHOLD** – An individual or household whose annual income is below eighty percent (80%) 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.

**FAMILY** – One (1) or more persons occupying a dwelling unit as a single house-keeping unit. Domestic employees may be housed on the premises without being counted as a family or families.

**FLOOR AREA, NET** – The actual occupied area of a building or buildings not including hallways, stairs, mechanical spaces and other non-habitable spaces, and not including thickness of exterior or interior walls.

**FLOOR AREA, GROSS** – The sum of the gross areas of all floors of a building, measured from the exterior faces of the exterior walls or from the centerline of walls separating two buildings. Gross floor area does not include the following:

- 1) Basement space having at least one-half the floor-to-ceiling height below grade, rated as non-habitable by applicable building code.
- 2) Accessory parking (i.e., parking that is available on or off-site that is not part of the use's minimum parking standard).
- 3) Attic space having a floor-to-ceiling height less than seven feet, rated as non-habitable by applicable building code.
- 4) Exterior balconies.
- 5) Uncovered steps, landings, and ramps.
- 6) Inner courts open to the sky.

**HOUSEHOLD INCOME, MEDIAN** – The median income, adjusted for household size, as reported by the most recent information from, or calculated from regulations promulgated by, the United States Department of Housing and Urban Development (HUD).

**INSTITUTIONAL USE** – A non-profit or quasi-public use or institution, such as a church, library, public or private school, municipally owned or operated building, structure or land, used for public purpose.

**MIXED-USE DEVELOPMENT PROJECT** – A Development Project containing a residential Principal Use and one or more Non-Residential, Secondary Uses as specified in Section 4.12.5.1, provided that, in newly constructed buildings, separate and distinct building entrances are provided for residential and non-residential uses.

**MONITORING AGENT** – An entity designated by the Reading Board of Selectmen, which may be the Reading Housing Authority or other qualified housing entity, with the power to monitor and to enforce compliance with the provisions of this By-Law related to Affordable Units, including but not limited to computation of rental and sales prices; income eligibility of households applying for Affordable Units; administration of an approved housing marketing and resident selection plan; and recording and enforcement of an Affordable Housing Restriction for each Affordable Unit in the DSGD (See Section 4.12.10.6).

**MULTI-FAMILY RESIDENTIAL** – A building containing four or more residential dwelling units designed for occupancy by the same number of families as the number of dwelling units.

**NON-RESIDENTIAL USE** – Office, Retail, Restaurant, Service or Institutional Use, inclusive, or some combination of the same.

**OFFICE** – A place for the regular performance of business transactions and services, generally intended for administrative, professional and clerical activities, including a medical or dental office or health clinic.

**PLAN** – A plan depicting a proposed Development Project for all or a portion of the Downtown Smart Growth District and which is submitted to the Approving Authority for its review and approval in accordance with the provisions of this Section 4.12.

**PLAN APPROVAL** – The Approving Authority's authorization for a proposed Development Project based on a finding of compliance with this Section 4.12 and Design Standards after the conduct of a Plan Review.

**PLAN REVIEW** – The review procedure established by this Article and administered by the Community Planning and Development Commission of the Town of Reading as the Approving Authority.

**RESTAURANT** – Any business establishment principally engaged in serving food, drink, or refreshments, whether prepared on or off the premises provided, however, that drive through windows are not allowed.

**RESIDENTIAL USE** – A building or part of a building containing Dwelling Units as defined herein above and parking that is accessory to the Dwelling Units.

**RETAIL USE** – Business establishments selling goods and/or services to customers on-site, generally for end use personal, business or household consumption. A reasonable amount of storage consistent with Massachusetts Building Codes of said goods shall also be assumed to be an incidental part of Retail Use.

**SMART GROWTH DISTRICT** – An Overlay Zoning District adopted pursuant to Mass. Gen. Laws Ch. 40R, in accordance with the procedures for zoning adoption and amendment as set forth in Mass. Gen. Laws Ch. 40A and approved by the Department of Housing and Community Development pursuant to Mass. Gen. Laws Ch. 40R and applicable regulations.

**UNDERLYING ZONING** – The zoning requirements adopted pursuant to Mass. Gen. Laws Ch. 40A that are otherwise applicable to the geographic area in which the DSGD is located, as said requirements may be amended from time to time.

**UNDULY RESTRICTIVE** – A provision of a Smart Growth District or a Design Standard that adds unreasonable costs or unreasonably impairs the economic feasibility of proposed Development Projects in a Smart Growth District.

**UNRESTRICTED UNIT** – A Dwelling Unit that is not restricted as to rent, price or eligibility of occupants.

**USE, ACCESSORY** – A use subordinate to the Principal Use on the same lot or in the same structure and serving a purpose customarily incidental to the Principal Use, and which does not, in effect, constitute conversion of the Principal Use of the lot, site or structure to a use not otherwise permitted in the Smart Growth District.

USE, PRINCIPAL – The main or primary purpose for which a structure, building, or lot is designed, arranged, licensed, or intended, or for which it may be used, occupied, or maintained under this Section 4.12.

USE, SECONDARY – A use located on the same lot as a Principal Use but which is of equal or lesser scale, impact, and visibility than the Principal Use. A Secondary Use is not an Accessory Use, as it is largely independent from the Principal Use.

#### **4.12.3 Scope and Authority**

The Downtown Smart Growth District is established pursuant to the authority of Mass. Gen. Laws. Ch. 40R and applicable regulations, and shall be deemed to overlay the parcels as shown on the Zoning Map of the Town of Reading, as amended. The Applicant shall have the option of applying for Plan Approval pursuant to the zoning controls set forth in this Article or complying with all applicable zoning controls set forth in the Zoning By-Laws of the Town of Reading for the underlying district(s) or for other overlay zoning that may be therein defined. Development Projects proceeding under this Article shall be governed solely by the provisions of this Article and shall be deemed exempt from the standards and/or procedures of the Underlying Zoning and other overlay provisions.

#### **4.12.4 Establishment and Delineation of the DSGD**

The Downtown Smart Growth District is an overlay district that is superimposed over the Underlying District. The boundaries are delineated as the “Downtown Smart Growth District” on the Official Zoning Map of the Town of Reading on file in the office of the Town Clerk, said map hereby made a part of the Reading Zoning By-Law.

#### **4.12.5 Allowed and Prohibited Uses**

Any use not listed herein as an Allowed Use is deemed prohibited.

##### **4.12.5.1 Allowed Uses**

The following uses shall be permitted as-of-right in the DSGD upon Plan Approval pursuant to the provisions of this article:

- (1) Multi-family Residential
- (2) Office\*
- (3) Retail\*
- (4) Restaurant\*
- (5) Institutional\*
- (6) Consumer Service\*

\*Only as part of a Mixed-Use Development; see Section 4.12.7 below

In addition to the allowed uses listed above, the following uses are permitted as-of-right for Development Projects within the DSGD subject to the requirements of this Article.

- (7) Parking accessory to any of the above permitted uses, including surface, garage-under, and structured parking
- (8) Accessory uses customarily incidental to any of the above permitted principal uses

**4.12.5.2 Prohibited Uses**

The following uses are prohibited in the DSGD:

- (1) Any use which regularly emits strong odors, or dust particles, or smoke, or poses danger, such as manufacture of acids, gases, fertilizers and glue, petroleum refining, reduction of animal matter, and manufacture of cement, gypsum, or explosives.
- (2) Any other use dangerous to persons within or outside the District by reason of emission of odor, fumes, gases, particulate matter, smoke, noise, vibration, glare, radiation, electrical interference, threat of fire or explosion, or any other reason.
- (3) Any use that degrades water quality, reduces groundwater recharge, or increases flooding are prohibited.

**4.12.6 Dimensional and Other Requirements**

Applications for Plan Approval shall be governed by this Section 4.12 and the Design Standards for the Downtown Smart Growth District.

<b>Building Type</b>	<b>Mixed-Use with Commercial 1<sup>st</sup> Floor</b>	<b>Other Mixed-Use or Residential Only</b>
<b>Maximum Floor Area Ratio (FAR) (Gross Floor Area / Lot Size)</b>	<b>2.8</b>	<b>2.4</b>
<b>Minimum Lot Frontage</b>	<b>50 feet</b>	
<b>Maximum Lot Coverage</b>	<b>N/A</b>	
<b>Minimum Lot Area</b>	<b>N/A</b>	
<b>Number of Buildings per lot</b>	<b>N/A</b>	
<b>Maximum Building Frontage</b>	<b>300 feet</b>	
<b>Minimum Front Setback <sup>1</sup></b>	<b>0 feet</b>	
<b>Maximum Front Setback <sup>1</sup></b>	<b>10 feet</b>	
<b>Minimum Side/Rear Setback <sup>2</sup> abutting a Residential Zone</b>	<b>15 feet</b>	

<b>Minimum Side/Rear Setback <sup>2</sup> in DSGD or abutting Business-B</b>	<b>0 feet</b>
<b>Interior Setback (between buildings on same lot)</b>	<b>15 feet</b>

<sup>1</sup> See 7.1.1 of the Design Standards for front façade setback requirements

<sup>2</sup> See 7.1.2 of the Design Standards for building step-back requirements

#### **4.12.6.1 Residential Density Allowances**

The following residential densities shall be allowed on all lots and within all buildings within the DSGD pursuant to the requirements of this Section 4.12:

Multifamily Residential                      20 Units per acre

- (a) The Approving Authority may provide a waiver as specified in Section 4.12.12 to allow a density in excess of that stated above.
- (b) The Approving Authority may provide a waiver as specified in Section 4.12.12 to promote the renovation or adaptive reuse of existing buildings.

#### **4.12.6.2 Dimensional Standards and Requirements**

The following building heights shall be allowed on all lots within the DSGD, pursuant to the requirements of this Section 4.12:

Multifamily Residential Buildings                      33 Feet  
 Multifamily Residential Buildings with                      45 Feet  
 Commercial Uses on the Ground Floor

#### **4.12.6.3 Contiguous Lots**

In the DSGD, where two or more lots are contiguous or are separated by a right-of-way, such lots may be considered as one lot for the purpose of calculating maximum lot coverage; parking requirements; minimum useable open space; and dwelling units per acre.

#### **4.12.6.4 Age-Restricted Housing Units**

An Applicant may propose a Residential or Mixed-Use Development Project in which all dwelling units are designed for or are accessible to the elderly or the handicapped under all applicable laws and regulations, provided that not less than twenty-five percent (25%) of the housing units in any such Development Project shall be Affordable Units. All such Development Projects shall be governed by the requirements of this Section 4.12 and the Design Standards.

#### **4.12.7 Mixed-Use Development**

Development Projects may include a portion not to exceed 50% of the total gross floor area to be used for non-residential uses including Office, Retail, Restaurant, Service or Institutional Uses; provided that office or institutional uses on the ground floor may not utilize more than 33% of the total gross square footage of that floor.

#### **4.12.8 Off-Street Parking and Loading**

##### **4.12.8.1 Off-Street Parking**

Retail stores, offices and consumer service establishments located within three hundred (300) feet of a public off-street parking facility shall be exempt from off-street parking requirements. In all other cases, off-street parking shall be provided to meet the following minimum requirements:

Retail or Restaurant	0 spaces
Office and Institutional	2 spaces per 1,000 sq. ft.
Residential Units	1.25 spaces per unit
Other Non-Residential, less than 2,000 sq. ft	0 spaces
Other Non-Residential, 2,000 ft or more leasable space in excess of 2,000 sq. ft	1 space per 2,000 sq. ft.

As indicated above, off-street parking is not required for Other Non-Residential uses in the district unless such use exceeds 2,000 square feet of net floor area.

##### **4.12.8.2 Off-Street Loading & Delivery**

Front door and on-street deliveries are not allowed for non-residential establishments on Main and Haven Streets. Off-street loading spaces shall be provided to meet or exceed the following minimum requirements:

Restaurant: leasable space in excess of 2,000 sq. ft.	1 space per 2,000 sq. ft.
Other allowed Secondary Use: leasable space in excess of 2,000 sq. ft.	1 space per 5,000 sq. ft.

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

##### **4.12.8.3 Location of Parking**

Any surface parking lot shall, to the maximum extent feasible, be located at the side or rear of a building, relative to any public right-of-way, public open space, or pedestrian way. In no case shall surface parking for new construction be permitted within the required front yard setbacks.

##### **4.12.8.4 Waiver of Parking Requirements**

The Approving Authority may grant a Plan Approval making such modifications in the standards or prescribe safeguards and conditions as it shall warrant appropriate, provided that it finds that it is impractical to meet the standards and that such modifications are appropriate by reason of the proposed use and will not result in or worsen parking or traffic problems in the DSGD. The Approving Authority may impose conditions of use or occupancy appropriate to such modifications.

#### **4.12.8.5 Shared Use of Required Parking**

Shared use may be made of required parking spaces by intermittent use establishments, for example, churches, assembly halls or theaters, whose peak parking demand is only at night or on specific days of the week; by other uses whose peak demand is only during the day; or in public parking lots. At the time of application, a formal agreement shall be made in writing by the owners of the uses involved concerning the number of spaces involved, substantiation of the fact that such shared use is not overlapping or in conflict, and the duration of the agreement.

The applicant shall demonstrate that shared spaces will meet parking demands by using accepted methodologies (e.g., the Urban Land Institute Shared Parking Report, ITE Shared Parking Guidelines, or other industry established studies on shared parking).

#### **4.12.8.6 Cooperative Establishment and Operation of Parking Areas**

Required spaces for any number of uses may be provided in a combined lot or lots (public or private), provided that the number of spaces in the combined facility shall not be less than the sum of those required of the individual uses, with allowances made, upon formal designation, for night use or for separate and distinct working shifts, and provided also that such lot or lots shall be within 600 feet of the principal buildings served.

#### **4.12.8.7 Visitor Parking**

The Approving Authority may allow for additional visitor parking beyond the minimum required spaces per unit if deemed appropriate given the design, layout and density of the proposed Development Project.

#### **4.12.8.8 Parking Design**

Parking shall be designed and constructed to comply with all applicable disability access requirements including but not limited to the Americans with Disabilities Act (ADA) and 521 CMR.

#### **4.12.9 Open Spaces and Recreational Areas**

The site design for Development Projects may include common open space and facilities. Where proposed, the plans and any necessary supporting documents submitted with an application for Plan Approval within the DSGD shall show the general location, size, character, and general area within which common open space or facilities will be located. The plans and documentation submitted to the Approving Authority shall include a description of proposed ownership and maintenance provisions of all common open space and facilities and, if requested by the Approving Authority, any necessary restrictions or easements designed to preserve the open space and recreational areas from future development. Upon consideration of the above information, the Approving Authority may approve a waiver as provided for in Section 4.12.12 for a front setback to allow for common open space or facilities.

#### **4.12.10 Affordable Housing**

Affordable Units shall comply with the following requirements:

- (1) The monthly rent payment for an Affordable Rental Unit, including utilities and parking, shall not exceed thirty percent (30%) of the maximum monthly income permissible for an Eligible Household, assuming a Family size equal to the number of bedrooms in the unit plus one, except in the event of an Eligible Household with a Section 8 voucher in which case program rent limits shall apply.
- (2) For an Affordable Homeownership Unit the monthly housing payment, including mortgage principal and interest, private mortgage insurance, property taxes, condominium and/or homeowner's association fees, insurance, and parking, shall not exceed thirty percent (30%) of the maximum monthly income permissible for an Eligible Household, assuming a Family size equal to the number of bedrooms in the unit plus one.
- (3) Affordable Units required to be offered for rent or sale shall be rented or sold to and occupied only by Eligible Households.

#### **4.12.10.1 Number of Affordable Units**

Twenty percent (20%) of all dwelling units constructed in a Development Project shall be Affordable Units. Provided however, for Development Projects in which all of the dwelling units are limited to occupancy by elderly persons and/or by persons with disabilities, twenty-five percent (25%) of the dwelling units shall be Affordable Units, whether the dwelling units are Rental Units or Ownership Units.

#### **4.12.10.2 Fractional Units**

When the application of the percentages specified above results in a number that includes a fraction, the fraction shall be rounded up to the next whole number if the fraction is 0.5 or more. If the result includes a fraction below 0.5, the fraction shall be rounded down to the next whole number.

#### **4.12.10.3 Design and Construction**

Affordable Units must be dispersed throughout a Development Project and be comparable in initial construction quality and exterior design to the Unrestricted Units. However, nothing in this section is intended to limit a homebuyer's rights to renovate a Dwelling Unit under applicable law. The Affordable Units must have access to all on-site amenities. Affordable Units shall be finished housing units.

All Affordable Units must be constructed and occupied not later than concurrently with construction and occupancy of Unrestricted Units. In Development Projects that are constructed in phases, Affordable Units must be constructed and occupied in proportion to the number of units in each phase of the Development Project.

#### **4.12.10.4 Unit Mix**

The total number of bedrooms in the Affordable Units shall be at least proportionate to the total number of bedrooms in all units of the Project of which the Affordable Units is part.

#### **4.12.10.5 Affordable Housing Restriction**

Each Affordable Unit shall be subject to an Affordable Housing Restriction which is recorded with the County Registry of Deeds or Land Court Registry District of the County. All Affordable Housing Restrictions must include, at minimum, the following:

- (a) A description of the Affordable Homeownership Unit, if any, by address and number of bedrooms; and a description of the overall quantity and number of bedrooms and number of bedroom types of Affordable Rental Units in a Development or portion of a Development which are rental. Such restriction shall apply individually to the specifically identified Affordable Homeownership Unit and shall apply to a percentage of rental units of a rental Development or the rental portion of a Development without specific unit identification.
- (b) The term of the Affordable Housing Restriction which shall be in perpetuity or for the longest period customarily allowed by law but shall be no less than thirty (30) years.
- (c) The name and address of the Monitoring Agent with a designation of its power to monitor and enforce the Affordable Housing Restriction.
- (d) Reference to a housing marketing and resident selection plan, to which the Affordable Unit is subject, and which includes an affirmative fair housing marketing program, including public notice and a fair resident selection process. If approved by DHCD, the housing marketing and selection plan may provide for local preferences in resident selection. The plan shall designate the household size appropriate for a unit with respect to bedroom size and provide that preference for such unit shall be given to a household of the appropriate size.
- (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 Eligible Households compiled in accordance with the housing marketing and selection plan.
- (f) Reference to the formula pursuant to which rent of a rental unit or the maximum resale price of a homeownership unit will be set.
- (g) A requirement that only an Eligible Household may reside in an Affordable Unit and that notice of any lease or sublease of any Affordable Unit shall be given to the Monitoring Agent.
- (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 restriction on an Affordable Homeownership Unit shall run in favor of the Monitoring Agent and the Town of Reading, 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 owner(s) or manager(s) of Affordable Rental Unit(s) shall file an annual report to the Monitoring Agent, in a form specified by that agent

certifying compliance with the provisions of this Section 4.12.10 and containing such other information as may be reasonably requested in order to ensure affordability.

- (k) Provision that the restriction on Affordable Rental Units in a rental Project or rental portion of a Project shall run with the rental Project or rental portion of a Project and shall run in favor of the Monitoring Agent and the Town of Reading, in a form approved by municipal counsel, and shall limit rental and occupancy to an Eligible Household.
- (l) A requirement that residents in Affordable Units provide such information as the Monitoring Agent may reasonably request in order to ensure affordability.
- (m) Designation of the priority of the Affordable Housing Restriction over other mortgages and restrictions.

#### **4.12.10.6 Administration**

The Monitoring Agent shall ensure the following (See Section 4.12.2 Definitions):

- (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 Units is properly and reliably determined.
- (c) The housing marketing and resident selection plan conforms to all requirements and is 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.
- (e) Affordable Housing Restrictions meeting the requirements of this section are recorded with the Middlesex County Registry of Deeds or Land Court Registry District of Middlesex County.

In the case where the Monitoring Agent cannot adequately carry out its administrative duties, upon certification of this fact by the Approving Authority or by the Department of Housing and Community Development, the administrative duties shall devolve to and thereafter be administered by a qualified housing entity designated by the Reading Board of Selectmen.

#### **4.12.10.7 Costs of Housing Marketing and Selection Plan**

The housing marketing and selection plan shall make provision for payment by the owner of reasonable costs to the Monitoring Agent and the owner shall pay reasonable costs to the Monitoring Agent to develop, advertise, and maintain the list of Eligible Households and to monitor and enforce compliance with affordability requirements.

#### **4.12.11 Plan Approval Procedures**

The Approving Authority (AA) shall adopt and file with the Town Clerk Administrative Regulations relative to the application requirements and contents for Plan Review, subject to approval by the Massachusetts Department of Housing and Community Development. Plan approval procedures shall be as follows:

#### **4.12.11.1 Pre-Application Requirements**

Prior to the submittal of a Plan for Plan Approval, a “Concept Plan” may be submitted to help guide the development of the definitive submission for project build out. Such Concept Plan shall reflect the following:

- (a) Overall building envelope areas
- (b) Open space and natural resource areas
- (c) General site improvements, drainage plans, groupings of buildings and proposed land uses
- (d) Anticipated parking spaces and locations
- (e) Site vehicular access

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

#### **4.12.11.2 Application Procedures**

All Projects are subject to Plan Approval.

##### **(1) Submittal**

An application for Plan Approval shall be submitted to the AA on the form provided by the Authority, along with the application fees set forth in the administrative regulations. The application shall be accompanied by such plans and other documents as required by the AA as well as any materials required to verify compliance with any of the provisions of this Section 4.12. All plans shall be prepared by certified architects or engineers as required by the Massachusetts Building Code.

An application for Plan Approval shall be filed by the Applicant with the Town Clerk. A copy of the application, including the date of filing certified by the Town Clerk, as well as the required number of copies of the application, shall be filed forthwith by the Applicant with the AA. Application submissions must include a hard copy as well as an electronic copy in PDF or CAD format. Said filing shall include any required forms provided by the AA. As part of any application for Plan Approval for a Development Project, the Applicant must submit the following documents to the AA and the Monitoring Agent:

- Evidence that the Development Project complies with the cost and eligibility requirements of Section 4.12.10;
- Development Project plans that demonstrate compliance with the design and construction standards of Section 4.12.10.3; and
- A form of Affordable Housing Restriction that satisfies the requirements of Section 4.12.10.5.

- Review Fees: The Applicant shall be required to pay for reasonable consulting fees to provide peer review of the application for the benefit of the Approving Authority. Such fees shall be held by the Town of Reading in an interest-bearing escrow account, and shall be used only for expenses associated with the use of outside consultants employed by the Approving Authority in reviewing the Plan application. Any surplus funds remaining after the completion of such review, including any interest accrued, shall be returned to the Applicant forthwith;
- (2) Circulation to Other Boards
- Upon receipt of the application, the AA shall immediately provide a copy of the application materials to all relevant municipal Boards, Departments, Commissions, Officials as determined by the AA and, if the project is subject to Affordability requirements, the Monitoring Agent. These entities shall provide any written comments within 60 days of receipt of the plan and application.
- (3) Public Hearing
- The Approving Authority shall hold a public hearing and review all applications according to the procedure specified in Mass. Gen. Laws Ch. 40A § 11
- (4) Criteria for Plan Approval
- The Approving Authority shall approve the Development Project upon the following findings:
- a. The Applicant has submitted the required fees and information as set forth in applicable Regulations; and
  - b. The proposed Development Project as described in the application meets all of the requirements and standards set forth in this Section 4.12, applicable Design Standards and the AA regulations, or a waiver has been granted there from; and
  - c. Any extraordinary adverse potential impacts of the Project on nearby properties have been adequately mitigated.
- For a Project subject to Affordability requirements, compliance with Condition b. above shall include written confirmation by the Monitoring Agent that all Affordability requirements have been satisfied.
- (5) Criteria for Plan Denial
- A Plan Approval application may be disapproved only where the Approving Authority finds that:
- a. The applicant has not submitted the required fees and information as set forth in the regulations; or
  - b. The Project as described in the application does not meet all the requirements and standards set forth in this Section 4.12, applicable Design Standards and the AA Regulations, or that a required waiver there from has not been granted; or
  - c. It is not possible to adequately mitigate significant project impacts on nearby properties by means of suitable conditions.
- (6) Time Limit
- The decision of the AA shall be made, and written notice of the decision filed with the Town Clerk within 120 days of receipt of the Application by the Town

Clerk. This time may be extended by mutual agreement between the AA and the Applicant by written agreement filed with the Town Clerk. Failure of the AA to take action within said 120 days or the extended time shall be deemed an approval of the Plan Approval application.

#### **4.12.12 Waivers**

Upon request of the Applicant, the Approving Authority may waive dimensional and other requirements, including design standards, with conditions, in the interests of design flexibility and overall project quality, and upon a finding of consistency of such variation with the overall purpose and objectives of the DSGD and the Reading Master Plan, or if it finds that such waiver will allow the project to achieve the density, affordability, mix of uses and/or physical character allowed under this Section 4.12. Notwithstanding anything to the contrary in this Zoning By-Law, the Affordability provisions of Section 4.12.10 shall not be waived. The Approving Authority will take into consideration the following items when considering a waiver:

- 1) High performance energy efficient buildings and construction methods.
- 2) Projects with publicly accessible open space.
- 3) Projects that include retail and restaurants located on street level.
- 4) A demonstrated shared parking initiative that makes efficient use of land and existing parking supply.
- 5) The preservation or rehabilitation of historic properties or other buildings considered significant to the Town.

#### **4.12.13 Plan Changes After Approval by Approving Authority**

##### **4.12.13.1 Minor Plan Changes**

After Plan Approval, an Applicant may apply to make minor changes in a Development 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 Approving Authority on redlined prints of the approved plan, reflecting the proposed change, and on application forms provided by the Approving Authority. The Approving Authority may authorize such changes at any regularly scheduled meeting, without the need to hold a public hearing. The Approving Authority 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.

##### **4.12.13.2 Major Plan Changes**

Those changes deemed by the Approving Authority to constitute a major change in a Development Project because of the nature of the change in relation to the prior approved plan, or because such change cannot be appropriately characterized as a minor change as described above, shall be processed by the Approving Authority as a new application for Plan Approval pursuant to this Section 4.12.

#### **4.12.14 Fair Housing Requirement**

All Development Projects within the DSGD shall comply with applicable federal, state and local fair housing laws.

#### **4.12.15 Project Phasing**

The Approving Authority may allow a Project to be phased at the request of the applicant or to mitigate any extraordinary adverse impacts on nearby properties. For projects that are approved and developed in phases, the proportion of Affordable units shall be consistent across all phases and the proportion of Existing Zoned Units to Bonus units (as those terms are defined in 760 CMR 59.00 shall be consistent across phases.

#### **4.12.16 Decisions**

The Approving Authority shall issue to the applicant a copy of its decision containing the name and address of the owner, identifying the land affected and the plans that were the subject of the decision and certifying that a copy of the decision has been filed with the Town Clerk. If 20 days have elapsed after the decision has been filed with the Town Clerk without an appeal having been filed, or if such appeal having been filed is dismissed or denied, the Town Clerk shall so certify on a copy of the decision. A copy of said decision shall be filed with the Middlesex South District Registry of Deeds.

A Plan Approval shall remain valid and run with the land indefinitely, provided that construction has commenced within two years after the decision is issued, which time shall be extended by the time required to adjudicate an appeal and which time shall be extended if the project proponent is actively pursuing other required permits or there is other good cause for failure to commence. The Approving Authority may require the posting of a performance bond to secure and/or screen a Development Project site in the event that demolition is undertaken but subsequent work lapses, for any reason within or outside the applicant's control, for a period longer than one year.

#### **4.12.17 Date of Effect**

The effective date of this By-Law shall be the date on which such adoption is voted upon by Town Meeting pursuant to the requirements of Section 5 of Chapter 40A of the General Laws and Chapter 40R of the General Laws; provided, however, that an Applicant may not proceed with construction pursuant to this By-Law prior to the receipt of final approval of this By-Law and accompanying Zoning Map by both the Department of Housing and Community Development and the Office of the Massachusetts Attorney General.

#### **4.12.18 Severability**

If any provision of this Section is found to be invalid by a court of competent jurisdiction, the remainder of this Section shall not be affected but remain in full force. The invalidity of any provision of this Section 4.11 shall not affect the validity of the remainder of the Town's Zoning By-Law.

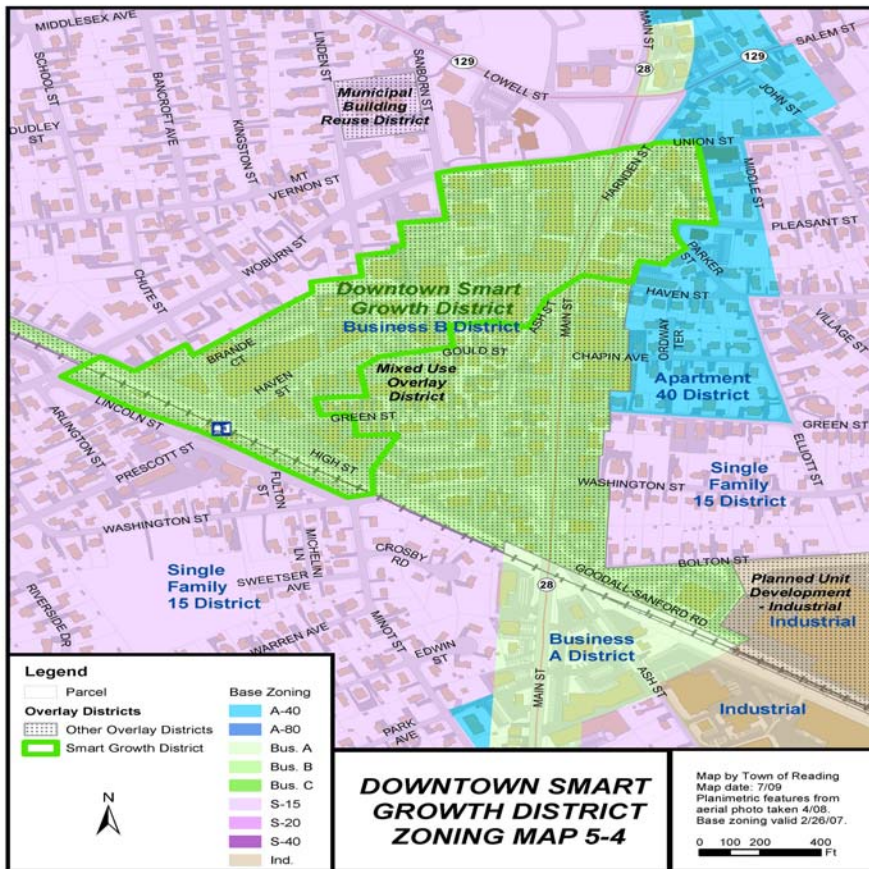
#### **4.12.19 Amendments to Design Standards**

The AA may adopt, by majority vote, amendments to the Design Standards. Any amendment to the Design Standards must be objective and not subjective and may only address the scale and proportions of buildings, the alignment, width, and grade of streets and sidewalks, the type and location of infrastructure, the location of building and garage entrances, off street parking, the protection of significant natural site features, the location and design of on-site open spaces, exterior signs, and buffering in relation to adjacent properties. DHCD may, at its discretion, require any amendment to the Design Standards to contain graphics illustrating a particular standard or definition in order to make such standard or definition clear and understandable.

Before adopting any Design Standard, the AA shall submit the proposed Design Standard to DHCD for approval. Any amendment to the Design Standards shall not take effect until approved by DHCD and filed with the Town Clerk.

An application for Plan Approval that has been submitted to the Town Clerk pursuant to this Section 4.12 shall not be subject to any Design Standard that has not been approved by DHCD and filed with the Town Clerk.

And that the Town vote to amend the Zoning Map of the Town of Reading as follows:



Community Planning and Development Commission