

SECTION 7.0 LINCOLN PARK SMART GROWTH OVERLAY DISTRICT (LPSGOD)

7.1 PURPOSE

It is the purpose of this Section to establish a Lincoln Park Smart Growth Overlay District and to encourage smart growth in accordance with the purposes of G. L. Chapter 40R, and to foster a range of housing opportunities along with a mixed-use development component, to be proposed in a distinctive and attractive site development program that promotes compact design, preservation of open space, and a variety of transportation options, including enhanced pedestrian access to employment and nearby transportation systems. Other objectives of this Section are to:

1. Promote the public health, safety, and welfare by encouraging 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 the goal of preserving municipal character and diversity;
3. Increase the production of a range of housing units to meet existing and anticipated housing needs;
4. Provide a mechanism by which residential development can contribute directly to increasing the supply and diversity of housing;
5. Establish requirements, standards, and guidelines, and ensure predictable, fair and cost-effective development review and permitting;
6. Establish development standards to allow context-sensitive design and creative site planning;
7. Enable the Town to receive Zoning Incentive Payments and/or Density Bonus Payments in accordance with G. L. Chapter 40R, 760 CMR 59.06, and additional Chapter 70 aid in accordance with G.L. Chapter 40S arising from the development of housing in the Lincoln Park Smart Growth Overlay District.

7.2 DEFINITIONS

For purposes of this Section, the following definitions shall apply. To the extent that there is any conflict between the definitions set forth in this Section 7.2 and the Enabling Laws, the terms of the Enabling Laws shall govern.

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

Affordable Housing - housing that is affordable to and occupied by Eligible Households. Affordable Housing units created within the LPSGOD meeting the standards set out in 760 CMR. 45.03 shall count on the Subsidized Housing Inventory, subject to the approval of the Massachusetts Department of Housing and Community Development (DHCD).

Affordable Housing Restriction - a deed restriction of Affordable Housing meeting statutory requirements in G.L. c. 184, Section 31 and the requirements of Section 7.5 of this Bylaw.

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

As-of-right Project or Project - means a development of housing under zoning without recourse to a special permit, variance, zoning amendment, or other form of zoning relief. A Project that requires approval pursuant to this Section 7.0 shall be considered an as-of-right Project.

Eligible Household - an individual or household whose annual income is less than 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.

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

Mixed Use - Structure in which multifamily use is permitted as of right with allowed commercial uses.

Multifamily Use - Dwelling containing four or more dwelling units.

Open Space - the part or parts of land within the LPSGOD which are reserved or restricted for permanent open space. This space shall exclude parking areas and stormwater detention areas, but include required setbacks and walkways. The Open Space shall be open and unobstructed to the sky; however; trees, planting, arbors, flagpoles, sculptures, fountains, swimming pools, atriums, outdoor recreational facilities, such items as streetscape elements (lights, planters, benches, etc.), outdoor areas devoted to dining, cafe or similar uses, and decorative surface treatments for sidewalks and other hard surfaces (such as pavers, cobblestones or concrete surface treatments designed to resemble pavers or cobblestones). and similar objects shall not be considered obstructions. No more than 50% of the total amount of required Open Space shall be "wetland" as defined by the requirements of G.L. c. 131, Section 40, and the Town's Wetland By-law.

Plan Approval- standards and criteria which a Project in the LPSGOD must meet under the procedures established herein and in the Enabling Laws.

Plan Approval Authority - For purposes of reviewing Project applications and issuing decisions on development Projects within the LPSGOD, the Plan Approval Authority (PAA), consistent with G.L. Chapter 40R and 760 CMR 59.00, shall serve for a three year term, and shall be composed of one member of the Board of Selectmen, one member of the Planning Board, and one member of the Zoning Board of Appeals, each member appointed by his or her respective board. The PAA is authorized to approve a site plan to implement a Project.

Recreational Uses - Active recreational uses, including but not limited to ballfields; and passive recreational uses, including but not limited to walking and bicycle paths. Amusements or motorized uses shall not be considered eligible recreational uses.

Townhouse Use - Dwelling containing two or three dwelling units.

Zoning By-law - the Zoning By-law of the Town of Dartmouth.

7.3 OVERLAY DISTRICT

7.3.1 Establishment. The Lincoln Park Smart Growth Overlay District, hereinafter referred to as the LPSGOD, is an overlay district having a land area of approximately 40.7 acres in size, being Assessor's Map 152, Lots 4 and 5, and Map 51, Lots 1 and 26, that is superimposed over the underlying zoning district, as shown on the Zoning Map as set forth on the map entitled "Plan Showing Area to be Zoned as Lincoln Park Smart Growth Overlay District dated May 1, 2006. This map is hereby made a part of the Zoning By-law and is on file in the Office of the Town Clerk.

7.3.2 Underlying Zoning. The LPSGOD is an overlay district superimposed on all underlying zoning districts. Where Plan Approval under the LPSGOD varies uses or dimensional requirements otherwise set forth in the Zoning By-Law, the terms and conditions of the LPSGOD shall control.

7.4 APPLICABILITY OF LPSGOD

In accordance with the provisions of G.L. Chapter 40R and 760 CMR 59.00, an Applicant for a Project located within the LPSGOD may seek Plan Approval in accordance with the requirements of this Section 7.0. In such case, then notwithstanding anything to the contrary in this Zoning By-law, such Plan Approval shall not be subject to any other provisions of this Zoning By-law, including limitations upon the issuance of building permits for residential uses related to a rate of development or phased growth limitation or to a local moratorium on the issuance of such permits, or to building permit or dwelling unit limitations, including but not limited to any rate of development limitations provided in the Zoning By-law. When a building permit is issued for any Project approved in accordance with this Section 7.0, the provisions of the underlying district(s) shall no longer be applicable to the land shown on the site plan which was submitted pursuant to Section 7.7 for such Project.

7.5 HOUSING AND HOUSING AFFORDABILITY

7.5.1 Marketing Plan. Prior to granting Plan Approval for housing within the LPSGOD, an Applicant for such approval must submit a narrative document and marketing plan that establishes that the proposed development of housing is appropriate for diverse populations, including households with children, other households, individuals, households including individuals with disabilities, and the elderly. These documents in combination, to be submitted with an application for Plan Approval

pursuant to Section 7.7, below, shall include details about construction related to the provision, within the Project, of units that are accessible to the disabled.

7.5.2 Number of Affordable Housing Units. Where Affordable Homeownership Units are proposed, not less than twenty percent (20%) of housing units constructed in a Project shall be Affordable Housing. Where Affordable Rental Units are proposed, not less than twenty five percent (25%) of housing units in any building containing rental units shall be Affordable Housing. For purposes of calculating the number of units of Affordable Housing required within a Project, any fractional unit of 0.5 or greater shall be deemed to constitute a whole unit.

7.5.3 Requirements. Affordable Housing shall comply with the following requirements:

1. For an Affordable Rental Unit, the monthly rent payment, including utilities and parking, shall not exceed 30 percent of the maximum monthly income permissible for an Eligible Household, assuming a family size equal to the number of bedrooms in the unit plus one, unless other affordable program rent limits approved by the DHCD 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 30 percent of the maximum monthly income permissible for an Eligible Household, assuming a family size equal to the number of bedrooms in the unit plus one.
3. Affordable Housing required to be offered for rent or sale shall be rented or sold to and occupied only by Eligible Households.
4. The LPSGOD shall not include the imposition of restrictions on age upon the entire District, but the development of specific Projects within the LPSGOD may be 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.

7.5.4 Design and Construction. Units of Affordable Housing shall be finished housing units. Units of Affordable Housing shall be dispersed throughout the development of which they are part and be comparable in initial construction, quality and exterior design to other housing units in the development. The total number of bedrooms in the Affordable Housing shall be proportionate to the total number of bedrooms in all the units in the development of which the Affordable Housing is part.

7.5.5 Affordable Housing Restriction. Each unit of Affordable Housing shall be subject to an Affordable Housing Restriction which is recorded with the appropriate registry of deeds or district registry of the Land Court and which contains the following:

1. Specification of the term of the affordable housing restriction which shall be the maximum period allowed by law but not less than ninety nine years;
2. The name and address of an administering agency with a designation of its power to monitor and enforce the affordable housing restriction;
3. A description of the unit of Affordable Housing by address and number of bedrooms;
4. Reference to a 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. The housing marketing and selection plan may provide for preferences in resident selection to the extent consistent with applicable law for the Affordable Housing Units; the plan shall designate the household size appropriate for a unit with respect to bedroom size and provide that the preference for such Unit shall be given to a household of the appropriate size;
5. A requirement that residents will be selected at the initial sale or initial rental and upon all subsequent sales and rentals from a list of Eligible Households compiled in accordance with the housing marketing and selection plan;
6. Reference to the formula pursuant to which rent of a rental unit or the maximum resale price of a homeownership will be set;
7. Designation of the priority of the Affordable Housing Restriction over other mortgages and restrictions, provided that a first mortgage of a Homeownership Housing Unit to a commercial lender in an amount less than maximum resale price may have priority over the Affordable Housing Restriction if required by then current practice of commercial mortgage lenders.
8. A requirement that only an Eligible Household may reside in Affordable Housing and that notice of any lease or sublease of any unit of Affordable Housing shall be given to the administering agency;
9. Provision for effective monitoring and enforcement of the terms and provisions of the affordable housing restriction by the administering agency;
10. Provision that the restriction on an Affordable Homeownership Unit shall run in favor of the administering agency and The Town of Dartmouth, in a form approved by municipal counsel, and shall limit initial sale and resale to and occupancy by an Eligible Household;
11. Provision that the restriction on an Affordable Rental Unit shall run in favor of the administering agency and The Town of Dartmouth, in a form approved by municipal counsel, and shall limit rental and occupancy to an Eligible Household.

12. Provision that the owner[s] or manager[s] of Affordable Rental Unit[s] shall file an annual report to the administering agency, in a form specified by that agency certifying compliance with the Affordability provisions of this Bylaw and containing such other information as may be reasonably requested in order to ensure affordability;

13. A requirement that residents in Affordable Housing provide such information as the administering agency may reasonably request in order to ensure affordability.

7.5.6 Administering Agency. An administering agency which may be the Dartmouth Housing Authority, or other qualified housing entity shall be designated by the PAA. In a case where the administering agency cannot adequately carry out its administrative duties, such duties shall devolve to and thereafter be administered by a qualified housing entity designated by the PAA or, in the absence of such timely designation, by an entity designated by the DHCD. In any event, such agency shall ensure the following:

1. Prices of Affordable Homeownership Units are properly computed; rental amounts of Affordable Rental Units are properly computed;
2. Income eligibility of households applying for Affordable Housing is properly and reliably determined;
3. The housing marketing and resident selection plan conforms to all requirements and is properly administered;
4. 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;
5. Affordable Housing Restrictions meeting the requirements of this section are recorded with the proper registry of deeds;

7.5.8 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 administering agency to develop, advertise, and maintain the list of Eligible Households and to monitor and enforce compliance with affordability requirements. Such payment shall not exceed one-half (1/2%) percent of the amount of rents of Affordable Rental Units (payable annually) or one (1%) percent of the sale or resale prices of Affordable Homeownership Units (payable upon each such sale or resale), as applicable.

7.5.9 Phasing. For housing that is approved and developed in phases, the proportion of Affordable Housing Units shall be consistent across all phases.

7.5.10 Computation. Prior to the granting of any Building Permit for the housing component of a Project, the applicant for such building permit must demonstrate, to the satisfaction of the PAA, 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 Dartmouth.

7.5.11 No Waiver. Notwithstanding anything to the contrary herein, the Affordability provisions in this Section 7.5 shall not be waived.

7.6 PERMITTED AND PROHIBITED USES

7.6.1 Permitted Uses. The following uses are permitted as of right in the LPSGOD:

1. Subzone A: Multifamily Residential Use with a density of 20 dwelling units per acre;
2. Subzone B: Mixed Use Development, as set forth in 760 CMR 59.02, in Subzone B. Commercial uses allowed in mixed-use structures are those listed as available in Subzone C, below. Residential density is 20 dwelling units per acre.
3. Subzone C: The following commercial uses only:
 - a. Retail sales (except adult uses are defined by G.L. c. 40A s. 9A);
 - b. Restaurant
 - c. Entertainment or Recreation Facility
 - d. Professional or Business Office
 - e. Office Service such as Travel or Financial Agency
 - f. Retail Service and associated repair Shop
 - g. Veterinary Hospital
 - h. Medical or Dental Office or Clinic
 - i. Barber Shop, Beauty Parlor, or Health Spa
 - j. Public or Private Club
 - k. Hotel or Motel
 - l. Nursery or Greenhouse for plant materials to be sold at retail on premises
4. All Subzones:
 - a. Parking, including surface, garage-under, and structured parking (e.g., parking garages) in all Subzones. "Surface parking areas" shall

include all areas devoted to parking other than structured or garaged parking.

- b. Open space and Recreational Uses.
- c. Accessory uses customarily incidental to any of the above permitted uses.

7.6.2 Prohibited Uses. All principal uses not expressly allowed are prohibited. The following principal uses are expressly prohibited:

1. Landfills, open dumps, or the disposal of solid wastes, other than brush and stumps.
2. Storage of liquid petroleum products, except for the following:
 - a. Normal household use, outdoor maintenance and heating of a structure;
 - b. Waste oil retention facilities required by statute, rule or regulation;
 - c. Emergency generators; gas fuel (not oil) stored where feasible;
 - d. Treatment works approved under 314 CMR 5.00 for treatment of ground or surface waters; provided that storage, listed in items a. through d. above, is in free-standing containers within buildings or above ground with secondary containment adequate to contain a spill the size of the container's total storage capacity.
3. The disposal of liquid or leachable wastes, except for normal sanitary wastes for allowed uses.
4. The landfilling or storage of sludge or septage. Except where storage of sludge or septage is incidental to an allowed use, in which case sludge or septage must be contained in water-tight containers at least 4 feet above the historical high groundwater table elevation.
5. The use of septic system cleaners which contain toxic organic chemicals.
6. Commercial or industrial uses which discharge process wastewater on-site which contains contaminants other than normal organic wastes.
7. Storage of road salt and de-icing chemicals.
8. Use of chemicals for de-icing unless deemed necessary for public safety.
9. Stockpiling and disposal of snow or ice from outside the LPSGOD which contains de-icing chemicals.

10. The mining of land except as incidental to an allowed use.
11. Facilities that generate, treat, store or dispose of hazardous waste subject to G.L., c. 21C and 310 CMR 30.00, except the following:
 - a. Very small quantity generators as defined under 310 CMR 30.00;
 - b. Household hazardous waste collection centers and events under 310 CMR 30.390;
 - c. Waste oil retention facilities required by G.L., c. 21, Section 52A;
 - d. Water remediation treatment works approved under 314 CMR 5.00.
12. Storage of liquid hazardous materials, as defined in G.L., c. 21E unless in a free-standing container within a building or above ground with secondary containment adequate to contain a spill the size of the container's total storage capacity.
13. Automotive service and repair shops, automobile graveyards, junk and salvage yards; small engine repair, repair of boats.
14. The storage of animal manure, unless such storage is covered or contained.
15. The storage of commercial fertilizers, soil conditioners, herbicides, or pesticides unless such storage is within a structure designed to prevent the generation and escape of contaminated runoff or leachate.

7.7 APPLICATION FOR PLAN APPROVAL

7.7.1 Pre-application. Prior to the submittal of a site plan, a "Concept Plan" may be submitted to help guide the development of the definitive site plan for Project buildout and individual elements thereof. Such Concept Plan should reflect the following:

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

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

7.7.2 Application. An application for Plan Approval shall be submitted to the PAA on the form provided by the PAA, along with an application fee of \$1,500.00 to cover administrative costs. An application shall show the proposed buildout of the entire Project, whether the Project will be phased or not.

7.7.3 Required Submittals. The application for Plan Approval shall be accompanied by the following plans and documents. All site plans shall be prepared by a certified architect, landscape architect, and/or a civil engineer registered in the Commonwealth of Massachusetts. All landscape plans shall be prepared by a certified landscape architect registered in the Commonwealth of Massachusetts. All building elevations shall be prepared by a certified architect registered in the Commonwealth of Massachusetts. All plans shall be signed and stamped, and drawings prepared at an appropriate scale of at least one inch equals forty feet (1"=40'), or at a scale as approved in advance by the PAA, and shall show the following.

1. The perimeter dimensions of the lot; Assessors Map, lot and block numbers.
2. All existing and proposed buildings, structures, building setbacks, parking spaces, driveway openings, distance between buildings, plan view exterior measurements of individual buildings, driveways, service areas and open areas.
3. Internal roads, sidewalks and parking areas (width dimensions of paving and indication of number of parking spaces).
4. All facilities for sewage, refuse and other waste disposal and for surface water drainage.
5. Landscaping plan, showing all proposed landscaping features, such as fences, walls, planting areas and walks on the lot and tract, with types, quantities, and sizes of proposed plantings.
6. Existing major natural features, including streams, wetlands and all trees six inches or larger in caliper (caliper is girth of the tree at approximately waist height).
7. Scale and North arrow (minimum scale of one inch equals 40 feet).
8. Total site area in square footage and acres and area to be set aside as public open space, if appropriate.
9. Percentage of lot coverage (including the percentage of the lot covered by buildings) and percentage of open space, if appropriate.
10. A marketing plan showing the proposed residential density in terms of dwelling units per acre and types of proposed commercial uses in terms of the respective floor area, and recreation areas, and number of units proposed by type: number of one bedroom units, two-bedroom units, etc., if appropriate.

11. Location sketch map (indicate surrounding streets and properties and any additional abutting lands owned by the applicant).
12. Representative elevation sketches of buildings (indicate height of building and construction material of the exterior facade).
13. Typical unit floor plan for residential uses. (Floor plan should be indicated for each type of unit proposed: either one bedroom, two bedrooms or more.) The area in square feet of each typical unit should be indicated.
14. Developer's (or his representative's) name, address and phone number.
15. Any other information which may include required traffic, school, utilities impact study and in order to adequately evaluate the scope and potential impacts of the proposed project, including a grading plan, parking layout plan, utilities plan, and lighting plan.

All plans and elevations presented with the application shall remain a part of the records of the PAA. The provision of the plan and the application shall be the sole responsibility of the applicant.

7.8 PROCEDURES

7.8.1 Filing. An applicant for Plan Approval shall file the application and all required submittals with the Town Clerk and shall also file forthwith 20 copies of the application and the other required submittals with the PAA including notice of the date of filing with the Town Clerk.

7.8.2 Circulation to Other Boards. Upon receipt of the Application, the PAA shall immediately provide a copy of the application materials to the Board of Selectmen, Zoning Board of Appeals, Board of Health, Planning Board, Conservation Commission, Fire Department, Police Department, Director of Inspectional Services, Department of Public Works, and other municipal officers, agencies or boards for comment, and any such board, agency or officer shall provide any written comments within 60 days of its receipt of a copy of the plan and application for approval.

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

7.8.4 Peer Review. In addition to the application fee, the applicant shall be required to pay for reasonable consulting fees to provide peer review of the Plan Approval application. This technical review fee shall be paid at the time of the application. The initial deposit shall be \$15,000.00 and shall be subject to replenishment as needed.

7.9 PROJECT PHASING

The PAA, as a condition of any Plan Approval, may require a Project to be phased to mitigate any extraordinary adverse Project impacts on nearby properties. For Projects that are approved and developed in phases, the proportion of Affordable Units and the proportion of market rate units shall be consistent across all phases.

7.10 DIMENSIONAL AND DENSITY REQUIREMENTS

7.10.1 Dimensional Requirements. Notwithstanding anything to the contrary in the Zoning By-law, the dimensional requirements applicable in the LPSGOD are as follows. All dimensional requirements shall be computed based upon the entire LPSGOD rather than on a Project by Project basis or building by building basis:\

Minimum Lot Area	not applicable
Minimum Lot Frontage*	150 feet
Maximum Building Height	45 feet or three stories
Minimum Street and Lot Line Setback*	10 feet
Minimum Open Space*	10%
Total LPSGOD Coverage by Buildings*	75%
Minimum Setback between Buildings	15 feet, where feasible

* Where noted, requirement shall be computed using the entire LPSGOD, not on a subzone or lot basis.

7.10.2 Subzone Density Requirements. The following density shall be allowed as of right in the LPSGOD Residential Subzones:

Subzone A	20 units per acre
Subzone B	20 units per acre
Subzone C: limited exclusively to commercial development.	not applicable

7.11 PARKING REQUIREMENTS

7.11.1 General. Notwithstanding anything to the contrary in this Zoning By-law, the parking requirements applicable in the LPSGOD are as follows:

Residential Use	2.0 spaces per unit
Retail Sales, Retail Service, Veterinary Hospital, Medical or Dental Office or Clinic, Barber Shop, Beauty Shop, Health Spa, Public or Private Club, Hotel, Motel, Nursery, Greenhouse, Professional or Business Office, Restaurant Use	3 spaces per 1,000 square feet of gross floor area
Entertainment, Recreational Use	5 spaces/acre for outdoor recreational use; 1 space per four persons based upon the design capacity of the facility for indoor recreational use
Mixed Use	Residential requirement plus nonresidential requirement
Commercial Use in Subzone C	As set for in the Dartmouth Zoning By-law for underlying district

7.11.2. Shared Parking. The use of shared parking to fulfill parking demands noted above that occur at different times of day is strongly encouraged. Minimum parking requirements above may be reduced by the PAA if the applicant can demonstrate that shared spaces will meet parking demands by using accepted methodologies (e.g. the Urban Land Institute Shared Parking Report, ITE Shared Parking Guidelines, or other approved studies).

7.11.3 Waiver of Parking Requirements. Notwithstanding anything to the contrary herein, any minimum required amount of parking may be reduced upon a demonstration to the reasonable satisfaction of the PAA that the lesser amount of parking will not cause excessive congestion, endanger public safety, or that lesser amount of parking will provide positive environmental or other benefits, taking into consideration:

1. The availability of surplus off street parking in the vicinity of the use being served and/or the proximity of a bus station or major transportation route;
2. The availability of public or commercial parking facilities in the vicinity of the use being served;
3. Shared use of off street parking spaces serving other uses having peak user demands at different times;

4. Age or other occupancy restrictions which are likely to result in a lower level of auto usage;
5. Impact of the parking requirement on the physical environment of the affected lot or the adjacent lots including reduction in green space, destruction of significant existing trees and other vegetation, destruction of existing dwelling units, or loss of pedestrian amenities along public ways; and
6. Such other factors as may be considered by the PAA.

7.12 RECHARGE AND STORMWATER MANAGEMENT STANDARDS

7.12.1 General. All roof runoff shall be recharged into the ground as specified by the standards set forth below. Stormwater management for the remaining site (nonroof) area shall be designed in accordance with pertinent water quality provisions of the Town of Dartmouth Conservation Commission Wetland Protection Bylaw, in effect as of May 1, 2006.

7.12.2 Standards.

1. Site design shall incorporate natural drainage patterns and through the use of constructed stormwater wetlands, wet (detention) ponds, water quality swales, sand filters, organic/vegetative filters or similar site appropriate best management practices capable of removing pollutants from stormwater. Reference shall be made to "Dartmouth Department of Public Works Stormwater Recharge Standards " in effect as of May 1, 2006, for the type of use proposed and the soil types present on the site.
2. Said stormwater management plan shall be developed by a professional engineer registered in the State of Massachusetts, and shall be reviewed and approved by the Zoning Enforcement Officer who reserves the right to retain a consultant engineer to review said plan, at the applicant(s) expense. Stormwater detention ponds shall be screened with vegetation.
3. All recharge systems shall be maintained in full working order by the owner(s) under the provision of an operations and maintenance plan approved by the Zoning Enforcement Officer to ensure that the system functions as designed.
4. If requested by the PAA, annual inspections of such mechanisms, certifying that the system is functioning properly, shall be conducted by a registered professional engineer and submitted to the Zoning Enforcement Officer no later than May 1 of each year, along with an administrative filing fee, as established by the Zoning Enforcement Officer. The Zoning Enforcement Officer may modify the inspection schedule based on the results of prior inspections.
5. In areas of the site where the maximum water table is four feet or more below existing topography, provision shall be made to collect and infiltrate a one

inch depth of runoff from roof areas. In other areas of the site, no infiltration is required.

6. Direct stormwater discharge, except roof runoff, into dry wells or underground discharge is prohibited on non-residential properties except where first filtered through an approved pre-treatment.

7. Only stormwater and sanitary sewage (via an approved sewage disposal system) may be discharged to the ground. Stormwater system failure shall be apparent by design.

8. Except for roof runoff systems, infiltration systems greater than three (3) feet deep shall be located at least one hundred (100) feet from drinking water wells.

9. Infiltration systems shall be designed to control hazardous material spills, remove contamination, and to avoid sedimentation of leaching facilities.

7.13 DESIGN STANDARDS AND GUIDELINES

7.13.1 General. In order to ensure high-quality development within the LPSGOD and to ensure design that respects the built and natural character of Dartmouth, the PAA has adopted the LPSGOD Design Standards and Guidelines, Appendix A, hereto. Such design standards and guidelines address the landscaping, lighting, screening, architecture, massing and scale of the Project. These design standards and guidelines focus on each Subzone and the LPSGOD in its entirety and are intended to be applied flexibly by the PAA as part of the Plan Approval process to enable the purposes of this District to be realized. All applications for Plan Approval shall comply, except where a specific waiver is granted, to such Design Standards and Guidelines.

7.13.2 Amendment. The PAA may, from time to time, amend Appendix A. No such amendment shall take effect until written approval by the DHCD.

7.14 DECISION

7.14.1 Waivers. Except where expressly prohibited herein, upon the request of the Applicant the Plan Approval Authority may waive dimensional and other requirements of Section 7.0, including the Design Standards and Guidelines of Appendix A, 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 LPSGOD, or if it finds that such waiver will allow the Project to achieve the density, affordability, mix of uses, and/or physical character allowable under this Section.

7.14.2 Plan Review. An Application for Plan Approval shall be reviewed for consistency with the purpose and intent of this Section, and such Plan Review and shall be construed as an as-of-right review and approval process as required by and in accordance with the Enabling Laws.

7.14.3 Plan Approval. Plan Approval shall be granted where the PAA finds that:

1. The applicant has submitted the required fees and information as set forth herein; and
2. The Project and site plan meet the requirements and standards set forth this Section 7.0, or a waiver has not been granted therefrom; and
3. Extraordinary adverse potential impacts of the Project on nearby properties have been adequately mitigated.

7.14.4 Plan Disapproval. A site plan may be disapproved only where the PAA finds that:

1. The applicant has not submitted the required fees and information as set forth herein; or
2. The Project and site plan do not meet the requirements and standards set forth this Section 7.0, or a waiver has not been granted therefrom; or
3. It is not possible to adequately mitigate significant adverse Project impacts on nearby properties by means of suitable conditions.

7.14.5 Form of Decision. The PAA shall issue to the applicant a copy of its decision containing the name and address of the owner, identifying the land affected, and the plans that were the subject of the decision, and certifying that a copy of the decision has been filed with the Town Clerk and that all plans referred to in the decision are on file with the PAA. If twenty (20) days have elapsed after the decision has been filed in the office of the Town Clerk without an appeal having been filed or if such appeal, having been filed, is dismissed or denied, the Town Clerk shall so certify on a copy of the decision. A copy of the decision shall be provided to the Director of Inspectional Services. A copy of the decision or application bearing such certification shall be recorded in the Bristol County (S.D.) Registry of Deeds, and indexed in the grantor index under the name of the owner of record or recorded and noted on the owner's certificate of title. The fee for recording or registering shall be paid by the applicant.

7.15 CHANGE IN PLANS AFTER APPROVAL BY PAA

7.15.1 Minor Change. After Plan Approval, an applicant may apply to make minor changes involving minor utility or building orientation adjustments, or minor adjustments to parking or other site details that do not affect the overall buildout or building envelope of the site, or provision of open space, number of housing units, or housing need or affordability features. Such minor changes must be submitted to the PAA on redlined prints of the approved plan, reflecting the proposed change, and on application forms provided by the PAA. The PAA may authorize such changes at any regularly scheduled meeting, without the need to hold a public hearing. The PAA shall set forth any decision to approve or deny such minor change by motion and written decision, and

provide a copy to the applicant for filing with the Town Clerk. A copy of the decision shall be provided to the Director of Inspectional Services.

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