

21.60 Cranberry Highway Smart Growth Overlay District (CHSGOD)

(Adopted: Article 15., May 20, 2019 Annual Town Meeting)

1.0 Purpose. It is the purpose of this Section to establish a Cranberry Highway Smart Growth Overlay District (CHSGOD), to encourage Smart Growth in accordance with the purposes of G. L. c. 40R and the regulations promulgated thereunder at 760 CMR 59.00 *et seq.*, and to foster a range of housing opportunities 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 consumer goods and services. Other objectives of this Section are to:

1. Promote the public health, safety, and welfare by encouraging diversity of housing opportunities;
2. To promote mixed use and economic development that is safe and pedestrian friendly;
3. Increase the production of rental and/or ownership 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 high quality 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 CHSGOD.

2.0 Definitions. For purposes of this Section, the following definitions shall apply. All capitalized terms shall be defined in accordance with the definitions established under the Governing Laws or this Section 2.0. To the extent that there is any conflict between the definitions set forth in this Section and the Governing Laws, the terms of the Governing Laws shall govern. Any term not defined in this Subsection or the Governing Laws shall

be subject to its common law definition unless a specific definition is otherwise expressly approved by DHCD for use under this Section, in which case, until such time that DHCD has confirmed the eligibility of at least 201 Bonus Units, any amendment to such definition shall not be applicable under this Section unless expressly approved by DHCD.

Affordable Unit or Affordable Housing or Affordable Housing Unit: An Affordable Rental Unit or an Affordable Homeownership Unit that is affordable to and occupied by an Eligible Household and is approved by the Department of Housing and Community Development for inclusion in the Town of Rochester's Chapter 40B Subsidized Housing Inventory.

Affordable Rental Unit: A Dwelling Unit required to be rented to an Eligible Household in accordance with the requirements of Subsection 4.0 of this section.

Affordable Homeownership Unit: A Dwelling Unit required to be sold to an Eligible Household in accordance with the requirements of Subsection 4.0 of this section.

Affordable Housing Restriction: A deed restriction of one or more Affordable Units required to be affordable in accordance with the requirements of Subsection 4.0 of this section, in perpetuity or the maximum period allowed by law, meeting statutory requirements in G.L. c. 184 Section 31 and the requirements of Subsection 4.0 of this section.

Applicant: The individual or entity that submits a Project for Plan Approval.

As-of-right: A residential, commercial or mixed-use that is developable as-of-right if it may be developed under the Underlying Zoning or Smart Growth Zoning without recourse to a special permit, variance, zoning amendment, or other form of zoning relief. Units developed as part of a Project that requires Plan Approval shall be considered As-of-right Units, subject to review and approval by the Department of the proposed Smart Growth Zoning under 760 CMR 59.00.

Department/DHCD: The Department of Housing and Community Development of the Commonwealth of Massachusetts (DHCD) or any successor agency.

Developable Land: The "Developable Land," as the term is defined in 760 CMR 59.00, is available for residential development within the CHSGOD. Developable Land shall not include:

1. Substantially Developed Land;
2. Open Space;
3. Future Open Space;
4. the rights-of-way of existing public streets, ways and transit lines;
5. land currently in use for governmental functions (except to the extent that such land qualifies as Underutilized Land); or
6. areas exceeding one-half acre of contiguous land that are:
 - a. protected wetland resources (including buffer zones) under federal, state or local laws;
 - b. rare species habitat designated under federal or state law;
 - c. characterized by steep slopes with an average gradient of at least fifteen percent; or
 - d. subject to any other local ordinance, bylaw or regulation that would prevent the development of residential projects at the as-of-right density set forth in the Smart Growth Zoning.

Dwelling Unit: Dwelling Unit: A room, group of rooms, or dwelling forming a habitable unit for living, sleeping, food storage and/or preparation and eating, and which is directly accessible from the outside or through a common hall without passing through any other dwelling unit. The term shall not include a hotel, motel, bed-and-breakfast, rooming house, hospital, or other accommodation used for transient lodging.

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.

Governing Laws: G. L. c. 40R and 760 CMR 59.00, as they may be amended from time to time.

Monitoring Agent: The local housing authority or other qualified housing entity designated by the PAA, pursuant to Section 4.0, to review and implement the Affordability requirements affecting Projects permitted under this Section 2.0.

Multifamily Residential Use: Apartment or condominium units in buildings that contain or will contain more than three (3) such units, provided that the Smart Growth Zoning may treat attached townhouses on separate lots as single-family residential use. See 760 CMR 59.04(1)(d).

Plan Approval: Standards and criteria which a Project in the CHSGOD must meet under the procedures established herein and in the Governing Laws.

Plan Approval Authority (PAA): For purposes of reviewing Project applications and issuing Plan Approval decisions on Projects within the CHSGOD, the Plan Approval Authority (PAA), consistent with G. L. c. 40R and 760 CMR 59.00, shall be the Planning Board. The PAA is authorized to review projects and issue Plan Approval decisions to implement a Project under G. L. c. 40R, § 11.

PAA Regulations: The rules and regulations of the PAA adopted pursuant to Section 11.0 of this Section 2.0, provided such rules and regulations have been approved for use under this Section by DHCD.

Plan Review: The review procedure established by this Section 11.0 and administered by the Plan Approval Authority.

Project: A residential development undertaken within the CHSGOD in accordance with the requirements of the Smart Growth Zoning.

Site Plan: A plan depicting a proposed Project for all or a portion of the CHSGOD and which is submitted to the Plan Approval Authority for its review and approval in accordance with provisions of this Section.

Smart Growth: A principle of land development that furthers, on balance, the goals set forth in G. L. c. 40R, § 1 and 760 CMR 59.02.

Unduly Restrict: A provision of the District or a Design Standard adopted pursuant to G.L. c. 40R and 760 CMR 59.00 that adds unreasonable costs or unreasonably impairs the economic feasibility of a proposed Development Project in the District.

Unrestricted Unit: A Dwelling Unit that is not restricted as to rent, price, or eligibility of occupants.

Zoning By-law: The Zoning By-law of the Town of Rochester.

3.0 Overlay District. The CHSGOD is an overlay district having a land area of approximately 30.91 acres, as shown on a plan entitled “Cranberry Highway Smart Growth Overlay District: Smart Growth Zoning Map,” prepared by Allen & Major Associates, Inc. and dated April 8, 2019 (see Appendix A, attached hereto), that is superimposed over the Underlying Zoning district(s). This map is hereby made a part of the Zoning By-Law and is on file in the Office of the Town Clerk.

1. *Underlying Zoning.* The CHSGOD is an overlay district superimposed on all Underlying Zoning districts. The Zoning By-law governing the Underlying Zoning district(s) shall remain in full force and effect except for Projects undergoing development pursuant to this Section 3.0. Within the boundaries of the CHSGOD a developer may elect either to develop a Project in accordance with this Section 3.0, or to undertake development in accordance with the requirements of the regulations for use, dimension and all other provisions of the Zoning By-law governing the Underlying Zoning district(s).

2. *Applicability of CHSGOD.* In accordance with the provisions of G. L. c. 40R and 760 CMR 59.00, an Applicant for a Project located within the CHSGOD may seek Plan Approval in accordance with the requirements of this Section 3.0. In such case, 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. When a building permit is issued for any Project approved in accordance with this Section 3.0, the provisions of the Underlying Zoning district(s) shall no longer be applicable to the land shown on the site plan which was submitted pursuant to Section 11.0 for such Project.

4.0 Housing Affordability.

1. *Marketing Plan.* Prior to granting Plan Approval for housing within the CHSGOD, an Applicant for such approval must submit a narrative document, housing marketing plan, and resident selection plan that establish 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 11.0, below, shall include details about construction related to the provision, type and specific location, within the Project, of all Affordable Housing units as well as all units that are accessible to the disabled. The marketing plan must be approved by DHCD pursuant to the Chapter 40R prior to the issuance of a building permit for a Project.

2. *Number of Affordable Housing Units.* Unless otherwise approved by DHCD upon a finding that such increase above the minimum twenty percent (20%) required under the Governing Laws is not unduly restrictive and inconsistent with the Governing Laws, not less than twenty-five percent (25%) of housing units constructed in each Project and the CHSGOD as a whole shall be Affordable Units. For purposes of calculating the number of units of Affordable Housing required within the CHSGOD, any fractional unit shall be deemed to constitute a whole unit.

3. *Requirements.* Affordable Housing shall comply with the following requirements:

- a. 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.
- b. 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.
- c. Affordable Housing required to be offered for rent or sale shall be rented or sold to and occupied only by Eligible Households.
- d. The CHSGOD shall not include the imposition of restrictions on age upon Projects unless proposed or agreed to voluntarily by the Applicant. However, the PAA may allow the development of specific Projects within the CHSGOD that may be exclusively for

the elderly, persons with disabilities, or for assisted living, provided that any such Project shall have received prior approval from DHCD, and shall comply with all applicable federal, state and local fair housing laws and regulations, and not less than 25% of the housing units in such a restricted Project shall be restricted as Affordable Units.

e. At least 10% of the Affordable Housing units shall be accessible to people with disabilities.

f. There may be a local preference applied in the selection of Eligible Households for a Project, to the extent allowable by applicable laws, regulations, and guidelines and to the extent it is approved by DHCD and any other applicable regulating authority(ies) for the Project.

4. *Design and Construction.* Units of Affordable Housing shall be finished housing units. Units of Affordable Housing shall be equitably dispersed throughout the development/Project of which they are part, proportionately across all unit types, and must be comparable in initial construction, quality and exterior design equivalent to the Unrestricted Units in the development. The total number of bedrooms in the Affordable Housing shall be at least proportionate to the total number of bedrooms in all the units in the Project of which the Affordable Housing is part.

5. *Affordable Housing Restriction.* Each for-sale unit of Affordable Housing, and each residential structure in a rental development, 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 prior to such recording has been approved by DHCD pursuant to the Chapter 40R. Such Affordable Housing Restriction shall contain the following:

a. Specification of the term of the Affordable Housing Restriction which shall be perpetual;

b. The name and address of a Monitoring Agent with a designation of its power to monitor and enforce the Affordable Housing Restriction;

c. A description of the Affordable Housing 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 Project or portion of a Project which are rental. Such restriction shall apply individually to the specifically identified Affordable Homeownership Unit and shall apply to a percentage of rental units of a rental Project or the rental portion of a Project with the initially designated Affordable Rental Units identified in, and able to float subject to specific approval by DHCD in accordance with, the corresponding Affirmative Fair Housing Marketing Plan (AFHMP) and DHCD's AFHMP guidelines;

d. Reference to 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 pursuant to the Chapter 40R Program. The housing marketing and selection plan shall provide for local preference in the selection of Eligible Households for a Project to the extent allowable by applicable laws, regulations, and guidelines and to the extent it is approved by DHCD and any other applicable regulating authority(ies) for the Project. 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;

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 the rent limit of an Affordable Rental Unit or the maximum resale price of an Affordable Homeownership Unit will be set;

g. 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 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, in a form approved by municipal counsel, and shall limit initial sale and resale to and occupancy by an Eligible Household;

j. 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, in a form approved by municipal counsel, and shall limit rental and occupancy to an Eligible Household;

k. Provision that the owner(s) or manager(s) of Affordable Rental Unit(s) shall file an annual report to Monitoring Agent, in a form specified by that Agent certifying compliance with the affordability provisions of this By-law and containing such other information as may be reasonably requested in order to ensure affordability;

l. A requirement that residents in Affordable Housing provide such information as the Monitoring Agent may reasonably request in order to ensure affordability.

6. *Monitoring Agent.* A Monitoring Agent shall be designated by the PAA as the Monitoring Agent for all Affordable Units in a Project. In a case where the Monitoring Agent cannot adequately carry out its administrative duties, upon certification of this fact by the PAA or by DHCD, 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 Monitoring Agent shall ensure the following, both prior to issuance of a building permit for a Project within the CHSGOD, and on a continuing basis thereafter, as the case may be:

a. Prices of Affordable Homeownership Units are properly computed; rental amounts of Affordable Rental Units are properly computed;

b. Income eligibility of households applying for Affordable Housing is properly and reliably determined;

c. The housing marketing and resident selection plan, including the location and unit-type mix of the Affordable Housing Units relative to all units within the Project, has been submitted to and received approval from the Department's 40R Program staff

and otherwise 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 proper registry of deeds or district registry of the Land Court; and

f. Local preference in the selection of Eligible Households for a Project to the extent allowable by applicable laws, regulations, and guidelines and to the extent it is approved by DHCD pursuant to an Affordable Fair Housing Marketing Plan.

7. *Housing Marketing and Selection Plan.* The housing marketing and selection plan shall make provision for payment by the Project Applicant of reasonable costs to the Monitoring Agent to develop, advertise, and maintain the list of Eligible Households and to monitor and enforce compliance with affordability requirements, as set forth in Section 4.0.

8. *Phasing.* The PAA, as a condition of any Plan Approval, may require a Project to be phased in order to mitigate any extraordinary adverse Project impacts on nearby properties. For Projects that are approved and developed in phases, the PAA shall assure the minimum required number of Affordable Housing units in the Project. Such assurance may be provided through use of the security devices referenced in G.L. c. 41, § 81U, or through the PAA's withholding of certificates of occupancy until the proportionality required under 760 CMR 59.04(1)(h) has been achieved. No Density Bonus Payment will be received by the Town until such proportionality has been achieved by the issuance of occupancy permits for the Affordable Housing units in the Project. Notwithstanding the foregoing, for Projects that are approved and developed in phases, the proportion of Affordable Housing units across all phases shall be at least 25%.

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

10. *No Waiver.* Notwithstanding anything to the contrary herein, none of the provisions in this Affordability Section 4.0 shall be waived, without specific written approval from DHCD where it has such authority.

5.0 Permitted Uses

1. The following uses are permitted As of right within the CHSGOD:
 - a. Multifamily Residential Use as a principal use, upon the issuance of Plan Approval for a Project.
 - b. Accessory uses which are subordinate to, clearly incidental to, customary in connection with and located in the same structure as a permitted principal use and which do not, in effect, constitute conversion of the permitted principal use to a use not otherwise permitted within the CHSGOD.
2. Commercial uses are allowed only in the Commercial Sub-District designated for commercial use on the CHSGOD Zoning Map. Commercial uses allowed in designated General Commercial Sub-Districts within the CHSGOD shall be consistent with the commercial uses allowed pursuant to the Rochester Zoning Bylaws Table of Uses for commercial areas.

6.0 Density.

1. *Residential.* The maximum permissible residential density in the CHSGOD shall be 20 units per acre of Developable Land provided that all residential use allowed under this Section and any associated accessory uses are limited to such Developable Land Sub-District and that residential use is not permitted elsewhere in the CHSGOD and that the total gross square floor area of non-residential uses permitted in the CHSGOD and any uses non-residential accessory to the allowable Multifamily Residential Use does not exceed 49% of the aggregate maximum gross floor area of all uses permitted in the CHSGOD. The CHSGOD, Multi -Family Subdistrict contains 10.4 acres of Developable Land. To the extent consistent with the Governing Laws, the total number of units to be developed in the CHSGOD, Multi-Family Subdistrict hereunder, therefore, shall not exceed 208 units, i.e. 10.4 acres x 20 units/acre.

7.0 Dimensional Regulations.

1. *Height.* Building height shall not exceed four (4) stories and 55 feet unless the corresponding portions of the ground floor are used for what would otherwise be required parking and/or one or more allowable accessory uses that substitute residential amenities, in either case, replacing a corresponding number of parking spaces that would otherwise be required to be provided in surface lots outside the building, in which case, the building height shall not exceed five (5) stories and 62 feet.
2. *Coverage.* To the extent the minimum residential densities that must be allowed under the Governing Laws can nonetheless be met, the Maximum building coverage shall be 30 percent measured as to the total acreage of Developable Land in the CHSGOD.

8.0 Performance Standards

1. *Interior Design.* Projects shall assure safe and convenient interior circulation within its site and safe and convenient connections to adjacent properties and transit stops by allowing for the separation of pedestrian, bicycle, and motor vehicle traffic.
2. *Noise.* Any Project in the CHSGOD shall comply with 310 CMR 31.07, as may be amended.

9.0 Off-Street Parking and Loading Regulations.

1. *Off-Street Parking Requirements.* For any structure that is constructed, enlarged, or extended, or has a change of use which affects the computation of parking spaces, and any use of land established, or any existing use changed, the number of parking spaces shall meet the following minimum requirements:

Residential uses 1.5 spaces per unit
Commercial uses 1 spaces per 200 square feet of commercial space

In no event shall the total number of parking spaces for residential uses exceed an average of 1.75 spaces per unit.

2. *Modification in Parking Requirements.* Notwithstanding anything to the contrary herein, any minimum required or maximum permitted amount of parking may be modified by the Plan Approval Authority through the Plan Approval process, if the Applicant can demonstrate

that the modified amount of parking will not cause excessive congestion, endanger public safety, or that a modified amount of parking will provide positive environmental or other benefits, taking into consideration:

- a. The availability of public or commercial parking facilities in the vicinity of the use being served;
- b. Shared use of parking spaces serving other uses having peak user demands at different times;
- c. The provision of safe, efficient, appropriately located and sheltered bicycle parking serving residential and commercial uses;
- d. Age or other occupancy restrictions which are likely to resulting a lower level of auto usage;
- e. Such other factors, including the availability of valet parking, shuttle service, or a transportation management plan as may be considered by the Approving Authority. Where such reduction is authorized, the Approving Authority may impose conditions of use or occupancy appropriate to such reductions provided such use or occupancy restrictions are otherwise voluntary.

2. *Parking Location and Design.* Required parking shall in all cases be on the same lot as the use it is intended to serve. Unless otherwise approved in writing by DHCD, parking shall not be located between the principle adjacent street (e.g., Cranberry Highway/Rte. 28, County Rd/Rte. 58) and the adjacent principle residential or commercial use but shall be located behind any commercial or residential use that fronts on or is adjacent to a principle street.

3. *Loading Requirements.* Adequate off-street loading facilities and space must be provided to service all needs created by construction of new structures. Required facilities shall be so sized and arranged that no trucks need back onto or off of a public way, or be parked on a public way while loading, unloading or waiting to do so.

10.0 Perimeter Vegetative Boundary.

1. *Perimeter buffer:* A minimum buffer of 10 feet shall be provided along all lot lines. The buffer shall be provided with berms, curbs or

other barriers at the inside edge to inhibit vehicular access. Screening shall be a four-season evergreen planting with groundcover, grass, or shrubs. Where 10 feet cannot be maintained, a minimum buffer of 5 feet shall be provided with a vertical wall or screening fence to a height of not less than 6 feet.

11.0 Application for Plan Approval; Required Submittals. The PAA shall adopt and file with the Town Clerk administrative rules (PAA Regulations) for Plan Approval Application submission requirements. Such administrative rules and any amendment thereto must be approved by DHCD before they become effective and applicable to Plan Approval Applications. 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 a scale of one inch equals forty feet (1" = 40') or larger, or at a scale as approved in advance by the PAA. 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. Plans 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. All proposed landscaping features, such as fences, walls, planting areas and walks on the lot and tract.
6. Existing major natural features, including streams, wetlands and all trees six inches (6") 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 (1" = 40')).
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. 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 (1) bedroom units, two (2) 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. 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, utilities impact study and in order to adequately evaluate the scope and potential impacts of the proposed project.

12.0 Procedures.

1. Filing. An Applicant for Plan Approval shall file the application form and the other required submittals with the Town Clerk and fifteen (15) copies of the application and other required materials, including the date of filing certified by the Town Clerk, shall be filed forthwith with the PAA. The application form and any other submittal requirements must be contained in the PAA Regulations which must be approved by DHCD.
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, Board of Appeals, Board of Health, Conservation Commission, Fire Department, Police Department, Building Commissioner, 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 thirty-five (35) days of its receipt of a copy of the plan and application for approval.

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.

4. Peer Review. The Applicant shall be required to pay for reasonable consulting fees to provide peer review of the Plan Approval application, pursuant to G. L. c. 40R, § 11(a). Such fees and any other fees required as part of an application to the PAA must be specified in the PAA Regulations which must be approved by DHCD. Approved Peer Review fees shall be held by the Town in a separate account and used only for expenses associated with the review of the application by outside consultants, including, but not limited to, attorneys, engineers, urban designers, housing consultants, planners, and others. Any surplus remaining after the completion of such review, including any interest accrued, shall be returned to the Applicant.

13.0 Decision.

1. Waivers. Except where expressly prohibited herein, upon the request of the Applicant the Plan Approval Authority may waive dimensional and other requirements in the interest of design flexibility and overall project quality, and upon a finding of consistency of such variation with the overall purpose and objectives of the CHSGOD, 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; but in no event shall such a waiver reduce the as-of-right density approved by DHCD.

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 shall be construed as an As-of-right review and approval process as required by and in accordance with the Governing Laws.

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

- a. the Applicant has submitted the required fees and information as set forth in the PAA Regulations as approved by DHCD;
- b. the Project and site plan meet the requirements and standards set forth in this Section, or a waiver has been granted therefrom in accordance with Section 13.0; and
- c. extraordinary adverse potential impacts of the Project on nearby properties have been adequately mitigated.

For a Project subject to the affordability requirements of Section 4.0, compliance with Condition (b), above, shall include written confirmation by the Monitoring Agent that all requirements of that Section have been satisfied. The PAA may attach condition(s) to its Plan Approval decision that are necessary to ensure substantial conformance with this Section 4.0 or to mitigate any extraordinary adverse potential impacts of the Project on nearby properties.

4. Plan Disapproval. A Plan Approval Application may be disapproved only where the PAA finds that:

- a. the Applicant has not submitted the required fees and information as set forth in the PAA Regulations as approved by DHCD;
- b. the Project and site plan do not meet the requirements and standards set forth in this Section, or in a waiver has been granted therefrom; or
- c. it is not possible to adequately mitigate significant adverse project impacts on nearby properties by means of suitable conditions.

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 or application bearing such certification shall be recorded in the registry of deeds for the county and district in which the land is located and indexed in the grantor index under the name of the owner of record or recorded and noted on the owner's certificate of title. The fee for recording or registering shall be paid by the Applicant.

14.0 Change in Plans After Approval by PAA.

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 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.

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.

15.0 Enforcement; Appeal. The provisions of the CHSGOD shall be administered by the Zoning Enforcement Officer, except as otherwise provided herein. Any appeal arising out of action by the PAA regarding an application for Plan Approval decision for a Project shall be governed by the applicable provisions of G. L. c. 40R. Any other request for enforcement or appeal arising under this Section shall be governed by the applicable provisions of G. L. c. 40A.

16.0 Severability. If any provision of this Section 21.60 is found to be invalid by a court of competent jurisdiction, the remainder of Section 21.60 shall remain in full force. The invalidity of any provision of this Section 21.60 shall not affect the validity of the remainder of the Town's Zoning By-Law.

OR WHAT IT WILL DO IN RELATION THERETO.