

SECTION 4 SINGLE DWELLING RESIDENCE DISTRICTS

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4.1 GENERAL REQUIREMENTS

In the R-15, R-26, R-34, R-40 and R-60, Districts no building or structure or part thereof shall be erected, altered or used, nor may any land be used except in conformance with the following regulations.

4.2 PERMITTED USES

Refer to Section 3 Use Regulations.

4.3 TWO FAMILY DWELLING CONVERSION

As provided for in Section 3.4.2.2, the Zoning Board of Appeals acting as the Special Permit Granting Authority may issue a special permit for the conversion of an existing one family dwelling for not more than two families under the following conditions:

- 4.3.1** Subject to all of the applicable general findings of Section 13.6.5.
- 4.3.2** The one family house shall have been erected prior to January 1, 1946.
- 4.3.3** The existing house is suitable and capable of being altered for the proper and convenient use of two families without materially altering the exterior appearance.
- 4.3.4** The Board shall require adequate plans setting forth the changes and improvements to be made.
- 4.3.5** The Board shall place such reasonable restrictions and conditions upon the special permit as they deem necessary under the purpose of the Zoning By-Law.

4.4 DIMENSIONAL REGULATIONS

Except as provided for in sections 4.6, 4.7 and 4.8 hereafter, no dwelling or structure shall be built in any single dwelling residence district except in conformance with the following requirements, and no lot or the building thereon shall be changed in size so as to violate the provisions hereof.

4.4.1* Minimum Lot Frontage

Land sold or subdivided shall provide for each dwelling or principal building not less than the minimum lot frontage required in the applicable residence district as listed in the schedule in section 4.4.10.

4.4.2 Minimum Lot Area

Land sold or subdivided shall provide for each dwelling or principal building not less than the minimum lot area required in the applicable residence district as listed in the schedule in section 4.4.10.

4.4.3* Minimum Usable Land Area

A specified percentage of the area required for zoning compliance, whether by special permit or otherwise, for any lot in a residence district shall consist of contiguous usable land area as defined in Section 1.3. Said percentage shall equal seventy-five (75) percent of said minimum requirement if it equals or exceeds 34,000 square feet and ninety (90) percent of said minimum requirement if it is less than 34,000 square feet.

4.4.4 Maximum Building Coverage

- A.** The total aggregate lot area covered by all principal and accessory buildings and structures shall not exceed the percentage specified in the applicable residence district, as listed in the schedule in section 4.4.10.
- B.** No part of any dwelling or principal building, excluding uncovered steps, may protrude into yards except that eaves, chimneys and other architectural features may project not more than 24 inches into yards.

4.4.5 Minimum Front Yard (Setback)

- A.** In single family residence districts no part of any building or other structure, including a porch, shall be erected or altered so as to be nearer to the street line than the nearest building located within two hundred and fifty (250) feet on either side of the lot facing the same street and located within the same block and district, but in no case can the setback required in this section be less than twenty five (25) feet nor need it exceed sixty (60) feet.
- B.** Setbacks for new buildings not otherwise controlled by Section 4.4.5.A. shall conform in minimum depth to the schedule in section 4.4.10.
- C.** In the case of a corner lot or a through lot, the above setback requirements shall apply on both streets.

4.4.6 Minimum Side Yard

Each principal building shall have a side yard between the building and each side lot line not less than is required in the applicable residence district, as listed in the schedule in section 4.4.10.

4.4.7 Minimum Rear Yard

Each principal building on an interior lot (that is a lot other than a corner lot or a through lot) shall have a rear yard not less than is required in the applicable residence district, as listed in the schedule in section 4.4.10.

4.4.8* Location and Size Of Accessory Buildings

- A. In residential districts, any permitted accessory building or structure (except fences and retaining walls) shall conform to the applicable setback for the principal building or use, excepting that any accessory building less than one hundred forty-four (144) square feet in area and not exceeding twelve (12) feet in height may be erected in a side yard if set back at least seventy five (75) feet from the street line and ten (10) feet from the side lot line; or in the rear yard if set back at least five (5) feet from the rear lot line. Private stables are further limited in Section 3.6.2.7.
- B. No accessory building in excess of sixteen (16) feet in height, or in excess of three hundred (300) square feet in area on lots of 40,000 square feet or less, or in excess of four hundred and eighty (480) square feet on lots greater than 40,000 square feet, shall be erected except by special permit from the Planning Board in accordance with the provisions of section 13.6. This provision shall not apply to legitimate accessory farm buildings nor to an otherwise lawfully conforming detached garage accessory to a single family dwelling provided such garage does not exceed 625 square feet in area and 16 feet in height.
- C. The placement of more than one accessory building on a lot shall be governed by the total square footage of such buildings taken in the aggregate in accordance with the provisions of this section as summarized in the following table.

Total Building Area (square feet)	Lot Size (≤ 40,000 square feet)	Lot Size (> 40,000 square feet)
≤144	Y	Y
145 -300	Y	Y
301 -480	SP	Y
481-625	SP [exception for garage see § 4.4.8 (B)]	SP [exception for garage see § 4.4.8 (B)]
>625	SP	SP

Note: Y = Use allowed by building permit from Building Inspector
SP = Use allowed by Special Permit from Planning Board

4.4.9* Residential Height Limitations

- A. In all residence districts except as otherwise provided in the Zoning Act, the limit of height shall not exceed two (2) stories, basement and attic, provided further that such attic space shall not be designed or used for human occupancy.
- B. Building height shall not exceed thirty-five (35) feet, but this limitation of height shall not apply to farm buildings, nor chimneys.

4.4.10* Schedule of Dimensional Requirements

	ZONING DISTRICT				
	R-15	R-26	R-34	R-40	R-60
Minimum Lot Frontage (feet)	100	130	170	200	200
Minimum Lot Area (square feet)	15,000	26,000	34,000	40,000	60,000
Minimum Usable Land Area (square feet)	13,500	23,400	25,500	30,000	45,000
Minimum Front Yard (*1) (feet)	35	40	40	40	40
Minimum Side Yard (feet)	10	15	20	20	20
Minimum Rear Yard (feet)	30	40	40	50	50
Maximum Building Coverage (percent)	25	25	25	25	25
Maximum Building Height (stories)	2	2	2	2	2
Maximum Building Height (feet)	35	35	35	35	35

Note: (*1) See 4.4.5(A) as to exception hereto, except as otherwise provided in the Zoning Act.

4.4.11* Nonconforming Lot Exemptions

Increased requirements respecting lot area, frontage, yard, and similar dimensions provided in this Zoning By-Law or amendments thereto shall be subject to the exemptions provided in section 6, chapter 40A, of the Massachusetts General Laws, and shall not apply to a vacant lot for single family use which, at the time of recording or endorsement, whichever occurred sooner, was not held in common ownership with any adjoining land, conformed to the then existing requirements, and had less than the increased requirement but at least five thousand square feet of area and fifty feet of frontage.

4.5 MOTOR VEHICLES

4.5.1* Unregistered Motor Vehicles in Residential Districts

Motor vehicles as defined in the General Laws which are unregistered or inoperable shall not be stored or parked in residential areas so as to be visible from any street or way for a period in excess of thirty (30) days. However, the open air storage of more than two (2) unregistered vehicles on any residential lot is prohibited. This section shall not apply to unregistered vehicles used primarily for agricultural purposes.

4.5.2 Parking or Storage Restrictions For Trucks And Buses In Residential Districts

A. Parking or storage of trucks, tractors, trailers for use with tractors, and buses except for deliveries or other similar short period parking, and except for parking or storage of farming trucks is prohibited in all residential districts except as follows:

- (1)** Vehicles not in excess of 3/4 ton manufacturer's rating.
- (2)** Vehicle housed within the confines of a garage or accessory building.

4.6 FLEXIBLE SUBDIVISION REGULATIONS

For the purpose of promoting the more efficient use of land in harmony with its natural features, an owner of a tract of land situated within a Residence District, or other suitable applicant, may make application to the Planning Board, acting as the Special Permit Granting Authority, for a special permit exempting any or all of the lots to be created upon the subdivision of such land from the square foot, usable lot area, frontage, yard, and setback requirements of Section 4.4.

4.6.1 Such application shall be accompanied by a Site Plan and such other information as is required by Planning Board Subdivision Rules and Regulations.

4.6.2 After submission of fees by the applicant, publication of notice and a public hearing, the Planning Board may, after due consideration of the reports and recommendations of the Conservation Commission and the Board of Health, grant such special permit provided that:

- A.** The number of lots on which there is to be a single dwelling unit does not exceed the number of lots upon which dwellings could be constructed on the total land area of the tract which is Land Usable for Residential Construction;
- B.** Each of the lots shown on the plan has reasonable frontage on a Street deemed adequate by the Planning Board;
- C.*** Each lot is of a size and shape to provide a Building Envelope within a surveyed and dimensioned Clearing Envelope which shall be in harmony with the natural terrain and other features of the tract, as shown on an approved Site Plan;

- D. The front, side and rear yards of each lot shall be shown on said approved site plan by dashed lines;
- E.* At least twenty-five (25) percent of the area of the tract subject to said special permit (exclusive of land set aside for road area) shall be Open Space;
- F. No lot shown on said Site Plan shall have less than 48,000 square feet in a R-60 District, 34,000 square feet in a R-40 District, or 30,000 square feet in a R-34 District, in all other residential districts the lot size shall not be reduced.

4.6.3 The Planning Board may impose further restrictions upon the tract as a condition to granting the special permit as the Planning Board shall deem appropriate to accomplish the purposes of this By-Law.

4.6.4 In connection with issuing or denying a special permit under this section, the Planning Board shall issue to the applicant and shall file with the Town Clerk a written decision which shall include as a minimum:

- A. A determination of the area of the tract which is "Land Usable for Residential Construction";
- B. A determination of the number of lots upon which dwellings could be constructed without regard to this section;
- C. A general description of the neighborhood in which the tract lies and the effect of the plan on the area;
- D. The relation of the plan to long range plans of the Town, if any;
- E. Whether or not the plan is designed to take advantage of the natural terrain of the tract;
- F. Whether or not the proposed Open Space is of a size and shape to provide adequate access to benefit the Town, or the creation of which is otherwise advantageous to the Town;
- G. If the Planning Board grants the special permit, the findings required by Section 4.6.2 and Section 13.6.5;
- H. If the Planning Board denies the special permits, its reasons for so doing;
- I. If the Planning Board disagrees with the recommendations of the Conservation Commission or the Board of Health, it shall state its reasons therefor in writing.

4.6.5 No building lot shown on said Site Plan may be subdivided at any subsequent time into two or more building lots unless said right has been expressly reserved by Special Permit, and no variance may be issued by the Board of Appeals which creates an additional building lot.

4.6.6 If said Special Permit is issued, the applicant shall submit for approval a definitive plan of said tract of land which is substantially

the same as said Site Plan, which shall be expeditiously processed by the Planning Board.

4.7 FLEXIBLE NON-SUBDIVISION (ESTATE LOT) REGULATIONS

The Planning Board, acting as the Special Permit Granting Authority may grant approval to a non-subdivision plan which includes the creation of lots having less frontage on a street as defined in Section 1.3 under sub-definitions (a) (b) and (c) than is otherwise provided for in this By-Law, for the purpose of preserving open space and of reducing visual and traffic density, provided that the following conditions are met.

- 4.7.1** Such application shall be accompanied by a Site Plan and such other information as is required by Planning Board Subdivision Rules and Regulations.
- 4.7.2** After submission of fees by the applicant, publication of notice and a public hearing, the Planning Board may, after due consideration of the reports and recommendations of the Conservation Commission and the Board of Health grant such Special Permit provided that:
 - A.** The total parcel consists of at least 320,000 square feet before division into separate lots, of which no more than forty (40) percent is wetland.
 - B.** Any lot which does not satisfy the frontage requirements has a total area which is at least equal to three hundred (300) percent of the lot size requirement for said parcel as set forth in Section 4.4. If the lot is located in two residential zoning districts, the district in which the house is to be located shall determine the size of the lot.
 - C.*** As a result of the approval of said plan, Open Space equal to at least 200,000 square feet for each lot having less than the required frontage is being created thereby on that lot or on other adjacent land. The purpose of this requirement is to avoid increasing density on tracts of land which could otherwise be developed as a formal subdivision by providing for a more limited form of development which results in substantially less overall density than would occur if said parcel was to be developed as a subdivision under this By-Law.
 - D.*** Such Site Plan shall provide for a Building Envelope within a surveyed and dimensioned Clearing Envelope with respect to any such lot created so as to ensure that the siting of such houses is suitable to the neighborhood.
 - E.** If the frontage on a street, other than a private driveway, satisfies the standard frontage requirements of this By-Law for the number of lots so created by said Site Plan, and all of said lots are capable of being built on as defined under Section 1.3 (Land Usable for Residential Construction), and the applicant wishes to create lots which vary from said standard frontage requirements, the Planning Board by Special Permit may modify

the requirements of Sections 4.7.2(A) and 4.7.2(B) provided that the total number of lots created does not exceed the number of lots that could otherwise be built upon under this section.

4.7.3 The Planning Board may impose further restrictions upon the tract as a condition to granting the Special Permit as the Planning Board shall deem appropriate to accomplish the purposes of this By-Law.

4.7.4 In connection with the issuing or denying of a special permit under this section, the Planning Board shall issue to the applicant and file with the Town Clerk a written decision which shall include as a minimum:

- A.** For each lot established by the approval of said plan, a determination that the total area of the lot, the area of the lot which is "Usable For Residential Construction", and the area of Open Space set forth on the lot or adjacent land are in conformance with the requirements of this section;
- B.** A determination of the number of lots upon which dwellings could be constructed without regard to this Section if a conventional subdivision plan were being submitted;
- C.** A general description of the neighborhood in which the tract lies and the effect of the plan on the area;
- D.** The relationship of the plan to long range plans of the Town, if any;
- E.** Whether or not the plan is designed to take advantage of the natural terrain of the tract;
- F.** Whether or not the proposed open space is of a size and shape to either provide adequate access to benefit the Town or the creation of which is otherwise advantageous to the Town;
- G.** A determination that a conventional subdivision of said parcel would be both economically feasible and capable of construction taking into account all state statutes, rules and regulations and all Town by-laws, rules and regulations, and that the issuance of such Special Permit is likely to result in no more building lots than would otherwise be approved and built upon as a conventional subdivision;
- H.** If the Planning Board grants the Special Permit, the findings required by Section 4.7.2 and Section 13.6.5;
- I.** If the Planning Board denies the Special Permit, its reasons for so doing; and
- J.** If the Planning Board disagrees with the recommendations of the Conservation Commission or the Board of Health, it shall state its reasons therefor in writing.

4.7.5 No building lot shown on said Site Plan may be subdivided at any subsequent time into two or more building lots unless said right has

been expressly reserved by said Special Permit and no variance may be issued by the Board of Appeals which creates an additional building lot.

4.8* PLANNED UNIT RESIDENTIAL DEVELOPMENT (PURD)

The Planning Board, acting as the Special Permit Granting Authority, may authorize a Planned Unit Residential Development (PURD) as defined by section 1.3 by special permit in conformance with the procedures specified in section 4.8 and section 13.6. Such PURD shall be subject to rules, regulations and criteria as officially promulgated by the Planning Board.

4.8.1 Purpose

It is the purpose of this section to allow for greater variety and flexibility in the development of housing types and to facilitate the construction and maintenance of streets, utilities and public services in a more economical and efficient manner while at the same time conserving important natural site features and permanently preserving open space.

4.8.2* Age-Restricted Occupancy

Unless expressly waived by the Planning Board, the PURD shall provide age-restricted housing comprised of dwelling units limited to use and occupancy primarily by persons at least 55 years of age or older, who are able to maintain an active, independent lifestyle without the help of additional onsite support services, in accordance with federal and state fair housing laws (42 U.S.C. Section 3607(b) and M.G.L. Chapter 151B, respectively), as amended.

4.8.2.1 Not more than three (3) residents shall occupy any dwelling unit.

4.8.2.2 All occupants of a dwelling unit shall be age fifty-five (55) or older except as follows:

- A.** A spouse or cohabitating partner of an occupant age fifty-five (55) or older.
- B.** An occupant pursuant to 4.8.2.2 (A.) who survives his or her spouse or partner.
- C.** Not more than one child residing with his or her parent(s), provided said child is eighteen (18) years of age or older.

4.8.2.3 The owner of the development shall publish and follow policies and procedures that demonstrate the intent to be housing for persons fifty-five (55) and older including federal Housing and Urban Development (HUD) rules for verification of occupancy.

4.8.3* Application

- A.** The applicant for a PURD special permit shall submit to the Planning Board a written application on the prescribed form containing all the information required hereafter including the following materials:
- (1)** A Development Statement listing the development team, setting forth the development concept, including in tabular form the number of units, type, size (number of bedrooms, amount of living space, gross floor area), ground coverage and summary showing the area of residential development and common open space as percentage of the total area.
 - (2)** A Development Site Plan of the entire tract in accordance with the requirements of this section and section 13.3 and meeting, to the extent applicable, the requirements set forth for a definitive plan in the Wilbraham Subdivision Regulations.
 - (3)** Architectural rendering of the site plans and typical structures including floor plans and elevations.
 - (4)** A traffic study of the area as it may be affected by the proposed development, including present and anticipated traffic counts, flow patterns, and capacity analysis of present and proposed intersections and entrances serving the development.
 - (5)*** An engineering report regarding the adequacy of sewage disposal, water supply and storm water drainage including the impact of the proposed design on the existing municipal utility infrastructure of the Town.
 - (6)*** Marketing and management information including proposed unit selling prices, construction schedule, phasing schedule, and drafts of policies and procedures that demonstrate the intent to be housing for persons fifty-five (55) and older including federal Housing and Urban Development (HUD) rules for verification of occupancy.
- B.** Said application shall contain sufficient information so that the Planning Board can determine the applicability of said application for the following items:
- (1)** Is consistent with the Master Plan of Development of the Town;
 - (2)** Preserves and protects the character of the Town and especially the immediate neighborhood, giving due consideration to such features as public safety, including traffic control and traffic impact upon surrounding roads; development of adequate recreational facilities for the

use of the residents of said proposal; adequate fire protection; public health including sewerage disposal, drainage and water supply; and the compatibility of the size, location, architecture, and landscaping of said project with the adjacent neighborhood and the Town;

- (3) Minimizes potential adverse environmental impacts upon the Town;
- (4) Is likely to result in a financially stable, soundly and attractively constructed and well managed and maintained project; and
- (5) Conforms to the specific provisions of this By-Law, including the design guidelines of this section and section 13.4.

C. Said permit shall not be issued unless the Planning Board affirmatively determines that each of the above listed criteria is met by said applicant.

4.8.4* Use Regulations

The following uses shall be permitted in a PURD:

- A. One family detached dwellings;
- B. Two family detached dwellings;
- C.* Townhouses or multiple dwellings not exceeding six (6) units per building;
- D. Recreational uses and community facilities such as parks, gardens, swimming pools, tennis courts, clubhouses and community buildings;
- E. Accessory uses customarily incidental and subordinate to the principal uses listed above, but expressly excluding any commercial or retail enterprises.

4.8.5* Dimensional Regulations

Property for PURD use shall comply with the following dimensional requirements:

4.8.5.1 Minimum Parcel Size. The total parcel shall have a minimum area of not less than twenty (20) acres. A minimum of ten (10) acres of the total area required for zoning compliance shall consist of usable land as defined in Section 1.3.

4.8.5.2* Minimum Parcel Frontage. The total parcel shall have a minimum frontage on a public way of at least one hundred (100) feet. There shall be no frontage requirements within the PURD.

4.8.5.3 Front, Side and Rear Yards. The minimum front yard (setback), side yard and rear yard requirements shall be

eighty (80) feet and shall pertain only to the periphery of the PURD.

4.8.5.4* Buffer Area. A landscaped buffer strip not less than thirty (30) feet wide, as described in Section 10.2, shall be provided along the perimeter of the property. The buffer area shall be counted as part of the front, side and rear yards. Additional buffering may be required in sensitive areas at the discretion of the Planning Board. The Planning Board may modify or waive the buffering requirement where variations in topography, natural features, or compatible land uses obviate the need for such a buffer.

4.8.6* Density Regulations

The maximum number of dwelling units permitted within any PURD shall be determined by the Planning Board to assure compliance with the purpose and intent of these PURD regulations, and in any event shall not exceed an average of eight (8) dwelling units per acre of usable land area if connected to the municipal sewerage system or an approved privately owned small sewage treatment facility or four (4) dwelling units per acre of usable land area if on an individual or group subsurface sewerage disposal system.

4.8.7* Building Requirements

4.8.7.1* Building Character. The PURD shall be a an architecturally integrated development. An architectural theme shall be carried out by the use of common building materials, color, exterior detailing, bulk and/or roof lines. Rigidity in design shall be avoided by variations in building type and location, landscaping and building coverage. Design characteristics shall be stated in the development application and shall include, but not be limited to, building materials, architectural design, and street furniture, which shall require Planning Board approval.

4.8.7.2 Building Location. Building location and orientation shall reflect:

- A.** Relationship to the street line and to other buildings in the development if in close proximity, in order to protect privacy and create visual coherence;
- B.** Views, solar access, and access to common open space, in order to enhance occupant's interests;
- C.** Organization of large developments into recognizable sub-areas in order to provide scale and identity;

- D. Avoidance of major topographic change and destruction of significant natural site features including removal of native trees and vegetation in order to preserve and protect the environment;
- E. Reduction of visual intrusion into abutting properties in order to protect existing character. To the extent practicable, the multifamily units of the PURD shall be developed more towards the interior rather than the periphery of the tract so that the one family and two family detached residences, if any, border adjacent properties, acting as a buffer between the development and pre-existing one family neighborhoods.

4.8.7.3 Maximum Building Height. The maximum height of structures shall be two (2) stories and thirty-five (35) feet above the ground.

4.8.7.4* Maximum Number of Bedrooms. The maximum number of bedrooms or rooms used primarily for sleeping purposes per dwelling unit shall be two (2).

4.8.7.5* Minimum Floor Area. The minimum floor area for any single dwelling unit shall be nine-hundred (900) square feet.

4.8.7.6* Minimum Setback Distance Between Buildings. Proposed buildings shall relate harmoniously to each other with adequate light, air, circulation and separation between buildings. The minimum setback distance between any two buildings shall be forty (40) feet.

4.8.7.7* Community Facility. Unless waived by the Planning Board, the development shall establish a community room or facility for use by the residents. Such facility shall provide community space for mail, indoor recreation, meetings, and other functions held by the residents.

4.8.7.8* Accessibility Design. Dwelling units and common areas shall be designed to comply with federal and state requirements of the Americans with Disabilities Act (ADA).

4.8.8* Utilities

A. Each dwelling in a PURD shall be provided with access, drainage and utilities that are functionally equivalent to that provided under the Planning Board's Subdivision Regulations. All utilities shall be placed underground.

B.* All dwelling units shall be serviced by a public water supply deemed adequate for fire protection and domestic use.

- C.* All dwelling units shall be connected to public sewers if available. If public sewers are not available, all dwelling units shall be serviced with onsite sewage disposal systems which shall be designed to meet the requirements of approval from the Wilbraham Board of Health and/or the Massachusetts Department of Environmental Protection as necessary.
- D.* All outdoor lighting in the development shall be designed to improve visibility, safety and a sense of security, while minimizing energy use, operating costs, glare and light pollution. Outdoor lighting shall be designed to prevent misdirected or excessive artificial light. Building areas shall not be floodlit. Roadways, parking areas, walkways, and other public areas shall be illuminated only by properly positioned, high-efficiency, "full-cutoff shielded" lighting fixtures not higher than fifteen (15) feet in height.

4.8.9* Parking and Circulation Requirements

- A. There shall be an adequate, safe, and convenient arrangement of pedestrian circulation, roadways, driveways and parking.
- B. Vehicular access to the PURD shall be provided from an existing public way which in the opinion of the Planning Board is adequate to service the proposed development. As a matter of public safety, an alternate emergency access may be required.
- C. Roads within the PURD shall be privately owned and maintained and shall be designed with sufficient width, suitable grade and adequate construction to safely provide for the needs of vehicular traffic generated by the development. Access roads shall be designed and constructed according to the requirements of the Wilbraham Subdivision Regulations or as otherwise modified by the Planning Board.
- D. Garages or off-street parking spaces, or a combination thereof, shall be provided for all occupants, employees, and visitors, and shall be not less than two (2) spaces per dwelling unit.
- E.* The development shall be served by sidewalks designed and constructed in accordance with ADA requirements and the Planning Board's Subdivision Regulations. The use of exterior stairs and raised curbing in area where there will be pedestrian activity shall be minimized.

4.8.10* Landscaping Requirements

- A. A coordinated landscape design for the entire project area, including landscaping of structures, parking areas, driveways and walkways, and buffer strips, shall be submitted for approval by the Planning Board.
- B. Wherever possible, existing trees and vegetative cover shall be conserved and integrated into the landscape design.

- C. Proper maintenance of the landscaping, including the buffer strip, shall be the responsibility of the owner, and shall be a condition of conformance with the Zoning By-Law.

4.8.11* Common Open Space Requirements

- A. All land within the PURD which is not covered by buildings, roads, driveways, parking areas or other development, or which is not set aside as private yards, patios or gardens for the residents, shall be common open space. The area of the common open space shall equal at least forty percent (40%) of the total area of the PURD tract. Such land shall have a shape, dimension, character and location suitable to assure its use for park, recreation, conservation, or agricultural purposes by all the residents of the development.
- B.* Suitable and usable outdoor recreational area or areas shall be provided for the use of tenants. At least 2,000 square feet per dwelling unit must be usable open space for active and passive recreation. Such space shall not include wetlands as determined by the Conservation Commission. Usable open space shall be defined to include land for community gardens, hiking/jogging paths, tennis courts, swimming pools or similar facilities.
- C. Further subdivision of common open land or its use for other than recreation, conservation, or agriculture, except for easements for underground utilities shall be prohibited.
- D. Provision shall be made that so that the common open space shall be owned in common and readily accessible to the owners and residents of all units in the development, or by membership corporation, trust or association whose members are the owners and residents of the units, or by the Town, or otherwise as the Board may direct. In all cases, the common open space shall be subject to a perpetual restriction running to or enforceable by the Town which shall be recorded in respect to such land. Such restriction shall be in such form and substance as the Board shall prescribe and may contain such additional restrictions on development and the use of common open space as the Planning Board may deem appropriate.

4.8.12* Community Association

- A.* An owners' association shall be established, requiring membership of each lot or unit owner in the PURD. The association shall be responsible for the permanent maintenance of communal water, sewage, recreational and thoroughfare facilities. An association agreement or covenant shall be submitted with the Special Permit application guaranteeing the continuing maintenance of such common utilities, land and facilities, assessing each unit a share of maintenance expenses. Such agreement shall be subject to the review and approval of

Town Counsel and the Planning Board as part of the Special Permit and shall be recorded in the Hampden County Registry of Deeds.

- B. Such agreements or covenants shall provide that in the event that the association fails to maintain the common facilities in reasonable order and condition in accordance with the agreement, the Town may, after notice to the association and public hearing, enter upon such land and maintain it in order to preserve the taxable value of the properties within the development and to prevent the common land from becoming a public nuisance. The covenants shall also provide that the cost of such maintenance by the Town shall be assessed ratably against the properties within the development.

4.8.13* Project Identification

- A.* As a condition of its approval, the Planning Board may permit a sign showing the project name to be permanently affixed at each entrance to the development which shall be designed to be compatible with the character of the development and the surrounding neighborhood. Each sign shall be of a size and design to be approved by the Planning Board provided that no such sign shall exceed twenty five (25) square feet in size.
- B. All streets shall be posted with standard street signs and all street names shall be approved by the Planning Board. Dwelling Units shall be assigned street numbers as assigned by the Assessors Office.

4.8.14* Enforcement

- A. As a condition of its approval, the Planning Board may establish time limits for any development or phases thereof.
- B. Before any building permits are issued for buildings in a given phase, the developer may be required to provide the Town with performance security in a form and amount satisfactory to the Planning Board to guarantee the construction of required site improvements.

4.8.15* Waivers

The Planning Board, acting as the special permit granting authority, may waive or modify any requirement of this section 4.8 for compelling reasons of safety, aesthetics or site design.

4.9* ACCESS TO LOT OTHER THAN FROM STREET FRONTAGE

In a residence district, vehicular access to and from the lot shall be across the front lot line subject to the following exception. The Planning Board acting as the Special Permit Granting Authority may authorize by Special Permit access to a single lot or up to three (3) adjacent lots across the side lot line or rear lot line from a single or common driveway. Such access is not intended for a lot which would otherwise be inaccessible or undevelopable and the Planning Board will not issue a Special Permit in those circumstances. Such access is intended for otherwise bonafide building lots when a common driveway will improve safety or convenience of access. It is also intended for use in new Flexible Subdivisions (Section 4.6) and new Flexible Non-Subdivisions (Estate Lots) (Section 4.7). Issuance of a Special Permit shall be subject to the following conditions:

- 4.9.1** Approval shall be subject to the applicable findings required under section 13.6.5;
- 4.9.2** Each lot shall have the proper frontage on an approved way and meet the applicable requirements for lot size;
- 4.9.3** For safety reasons, if the single or common driveway has its entrance off another way, then the address for the parcel(s) must be the entrance drive location and not the frontage;
- 4.9.4** A plan of the parcel(s) shall be submitted to the Planning Board for approval and prior to endorsement must be annotated to state that further subdivision of the parcel is prohibited if such subdivision would reduce the frontage on the public way below the minimum required.
- 4.9.5*** Common driveways shall be constructed to meet the following minimum standards which may be made more stringent at the discretion of the Planning Board where appropriate:
 - A.** Minimum turning radius of fifty (50) feet;
 - B.** Minimum width of fourteen (14) feet;
 - C.** Driveway surface able to support a minimum of sixty five thousand (65,000) pounds of gross vehicle weight; and
 - D.** Turnoff provided for every five hundred (500) feet of driveway length.

4.10* ACCESSORY APARTMENT REGULATIONS

The purpose of this section is to provide an opportunity for home owners who cannot physically or financially maintain their single-family homes to remain in homes they might otherwise be forced to leave, and to provide more diversity of housing to meet the needs of Town residents while protecting the stability, property values, and the single-family residential character of the Town. The intent is to provide for the use of a group of rooms in a single-family residence as an apartment with its own kitchen and bathroom facilities, for the use of persons related to the resident family, subject to special precautions with respect to privacy, safety, numbers of occupants, and adequacy of water supply and sewage disposal; where the owner is a resident of the premises; and where the use of such a group of rooms is clearly accessory to the principal use of the premises as a single-family residence. It is further the intent that the structural changes, if any, necessary to effect the accessory apartment use be sufficiently modest that such use could be terminated, and reconverted to use exclusively as a single-family residence, without substantial hardship in reconstruction.

4.10.1 The Planning Board, acting as the Special Permit Granting Authority, may authorize an accessory apartment by special permit provided that the following standards and criteria are met:

- A.** The accessory apartment shall be contained within or added to the structure of the single-family dwelling, and shall function as a separate housekeeping unit from the single-family dwelling, complete with its own means of egress, sleeping, cooking and sanitary facilities.
- B.** Only one apartment shall be created within a single-family home.
- C.** The owner of the premises must occupy either the principal single-family dwelling or the accessory apartment. The other unit shall be occupied only by a family member. For purposes of this section, family member shall be defined as one of the relatives of the home owner or spouse such as mother, father, sister, brother, son, daughter, uncle, aunt, grandmother, grandfather and/or their spouses.
- D.** Not more than two (2) persons shall occupy the accessory apartment.
- E.** The accessory apartment shall be designed so that the overall building retains the appearance of a single-family residence. An addition to an existing single-family dwelling may be permitted provided that the addition is reasonably compatible with the character and scale of the existing building. In general, new entrances shall be located on the side or rear of the building. Any exterior changes must conform with the single family character of the neighborhood.

- F. The accessory apartment shall be clearly subordinate to the single-family dwelling. It shall be no greater than seven hundred (700) square feet, shall have no more than two (2) bedrooms, and shall occupy no more than one-third (1/3) of the total floor space of the principal single-family dwelling.
- G. The lot and structures thereon shall comply with all other applicable provisions of this Zoning By-Law.
- H. Water supply and sewage disposal facilities shall be adequate to serve the proposed use as determined by the Town Engineer. Before a special permit is issued for an accessory apartment to be served by an existing on-site septic system, the owner shall obtain a letter from the Board of Health or its agent that the sewage disposal system is adequate for the principal dwelling unit and the proposed accessory apartment.
- I. Suitable permanent off street parking shall be provided in accordance with section 11.2.
- J. The construction of any accessory apartment shall require a building permit and shall be constructed in conformity with State Building Code requirements.
- K. The Planning Board may allow reasonable deviation from the conditions stated herein under special and appropriate circumstances when, in the judgment of the Planning Board, such action is in the public interest and not inconsistent with the purpose and intent of this section or where necessary to install features that facilitate access and mobility for disabled and handicapped individuals.

4.10.2 The procedure for the submission and approval of a special permit for an Accessory Apartment in an Owner-Occupied, Single-Family Dwelling shall be as described in Section 13, except that it shall include a notarized letter of application from the owner(s) stating that the owner(s) will be occupying one of the units and that the other unit will be occupied only by family members as defined herein. Such letter shall state the name and family relationship of all occupants to be living on the premises.

4.10.3 Upon receiving a special permit, the owner(s) shall file on subject property a Declaration of Covenants at the Hampden County Registry of Deeds. A time stamped copy of this recorded Declaration shall be provided to the Planning Board and the Building Inspector prior to applying for a building permit. The recorded Declaration shall include the following requirements which shall appear as conditions of all special permits issued under this section:

- A. That the owner(s) shall occupy one of the units on said premises and that the other unit shall be occupied only by family members as defined by this section of the By-Law.

- B.** At the beginning of each calendar year, the owner(s) shall file a notarized statement with the Planning Board listing the name and family relationship of all occupants residing on the premises.
 - C.** The special permit for the accessory apartment in said owner-occupied, single-family home shall terminate upon any change in occupancy in violation of the terms of the special permit. In such event, the owner(s) of the altered dwelling must dismantle the cooking facilities for the accessory apartment and restore the dwelling to a single-family residence forthwith. Except that relief from enforcement of this Zoning By-Law shall be accorded by the Planning Board upon a showing of hardship by the Petitioner.
 - D.** The special permit for the accessory apartment in said owner-occupied, single-family home shall also terminate upon the sale of the property or transfer of the title of the dwelling. In such event, the owner(s) of the altered dwelling must dismantle the cooking facilities for the accessory apartment and restore the dwelling to a single-family residence as a condition of sale or transfer of title, unless a new special permit is obtained from the Planning Board.
- 4.10.4** An accessory apartment authorized by special permit may be continued as a lawful use under new ownership if the new owner(s) apply for re-approval of the special permit and the Planning Board determines that conditions imposed under the original special permit remain unchanged. Minor changes may be approved without a hearing by the Planning Board. However, the Planning Board in its sole discretion at the time of reapplication by a new owner, may require compliance with all the procedures under this section 4.10.