

## A ZONING ORDINANCE ESTABLISHING THE NEWBURYPORT SMART GROWTH DISTRICT (SGD)

Be it ordained by the City Council of the City of Newburyport as follows:

### *Zoning Ordinance Amendment:*

## APPENDIX A: ZONING ORDINANCE OF THE CITY OF NEWBURYPORT

### SECTION XXIX: SMART GROWTH DISTRICT (SGD)

Appendix A to the Code of Ordinances, City of Newburyport, Massachusetts, is hereby amended by adding a new section, to be numbered Section XXIX, which reads as follows:

### SECTION XXIX: SMART GROWTH DISTRICT (SGD)

#### XXIX-A Purposes

#### XXIX-B Establishment & Applicability

#### XXIX-C Definitions.

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The purpose of this Section (XXIX) is to establish the Newburyport Smart Growth District (SGD) and to encourage “Smart Growth” and “Sustainable Development” in accordance with the purposes of M.G.L. Chapter 40R consistent with the 2001 Newburyport Master Plan, 2015 Master Plan Update, and 2004 Strategic Land Use Plan. Other objectives of this Section are to:

1. **Concentrate New Infill Development Close to the Newburyport Commuter Rail Station:** Allow for the alternative development and redevelopment of sites in close proximity to the Newburyport Commuter Rail Station characterized by a mix of residential and nonresidential uses, pedestrian-oriented design and connectivity, transportation choice, and high quality urban design;
2. **Encourage Sustainable Mixed Use Development:** Downtown Newburyport has historically contained a mix of uses: retail, office, residential, and governmental, all of which collectively contribute to the community center character. New mixed-use development within the SGD should contribute to the overall mix of uses in proximity to the Newburyport Commuter Rail Station, consistent with Newburyport’s historic pattern of development, creating a compact, sustainable, walkable and vibrant new transit-oriented neighborhood with decreased dependence on the automobile. This district comprised of new residences and commercial development in close proximity and within walking distance to public transit will encourage people to live, work and shop within this new village of Newburyport.

3. **Increase the Range of Housing Choices within the Newburyport and the District:** Encourage the development of housing units of varied types, sizes, affordability, and the creation of rental units in high demand;
4. **Beautify and Enliven this New Center:** New development and redevelopment should create a livable and vibrant new center, greatly enhancing the character of this previously developed and underutilized area adjacent to the Commuter Rail Station and Route One Traffic Circle, with community amenities, including sidewalks, crosswalks, street trees, lighting, and pedestrian oriented spaces, making connections to open spaces and public transportation.
5. **Balance Unity & Variety & Create Legibility:** The design standards required for development within the SGD (see Section XXIX-I) are intended to ensure that new buildings are compatible with the scale, massing and overall vernacular architecture and development patterns of Newburyport while recognizing that architecture and construction should be relevant to its particular period which promotes and allows for visual variety and creativity reflected through the design and building technologies of its time. Legibility of spaces is especially encouraged by way of a clear definition of public, semi-public, semi-private, and private zones; residential, retail, commercial and public uses; usable open spaces and enclosed building volumes; and vehicular and pedestrian areas.
6. **Establish High Quality Development Standards:** New development should be consistent with the Design Standards found in Section XXIX-I. New construction should respect the patterns of New England construction that have and continue to define historical Newburyport, including reinforcing the street line, Rail Trail and MBTA Station by moving the buildings next to the sidewalk in commercial areas, creating a pedestrian-friendly environment through an intimately scaled rhythm of human-scale facade features.
7. **Promote Sustainable Development:** Foster high-quality, compact development on existing and adequate municipal infrastructure using sustainable construction techniques and materials. Water conservation and energy efficiency should be a central goal in the selection of building components and building systems.
8. **Ensure Fair & Predictable Permitting:** Establish clear requirements, standards, and guidelines for new development and re-development, and ensure predictable, fair and cost-effective development review and permitting; and
9. **Allow for Incentive Payments from the Commonwealth:** Enable the City to receive Zoning Incentive Payments and Density Bonus Payments for encouraging Smart Growth development in accordance with M.G.L. Chapter 40R and 760 CMR 59.06.

#### **XXIX-B Establishment & Applicability.**

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1. **Establishment:** The Smart Growth District (SGD) is hereby established as an overlay zoning district consisting of all such parcels of land depicted on a map entitled “40R Smart Growth District – Newburyport, MA,” prepared by the Office of Planning and Development, and dated March 26, 2015. The Smart Growth District, hereinafter referred to as the SGD, is an overlay district having a land area of approximately 49.56 acres in size that is superimposed over the underlying zoning district(s) and is shown on the above referenced zoning map on file in the Office of the City Clerk, which is hereby made a part of the Zoning Ordinance.

2. **Underlying Zoning:** The SGD is an overlay district superimposed on all underlying zoning districts. The regulations for uses, dimensions, and all other provisions of the Zoning Ordinance governing the underlying zoning district shall remain in full force except for those Projects undergoing development pursuant to this Section. Within the boundaries of the SGD, a developer may elect either to develop a Project in accordance with the requirements of this Section, or to develop in accordance with requirements of the regulations for uses, dimensions, and all other provisions of the Zoning Ordinance governing the underlying zoning district.
3. **Applicability of SGD.** In accordance with the provisions of M.G.L. Chapter 40R and 760 CMR 59.00, an Applicant for a Project located within the SGD may seek Plan Approval in accordance with the requirements of this Section. In such case, notwithstanding anything to the contrary in this Zoning Ordinance, such application shall not be subject to any other provisions of this Zoning Ordinance, including limitations upon the issuance of building permits 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.

## XXIX-C Definitions

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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 or the Enabling Laws (M.G.L. Chapter 40R and 760 CMR 59), 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 units that are affordable to and occupied by Eligible Households, for which affordability is assured for a period of no less than 30 years through the use of an Affordable Housing Restriction.

***Affordable Housing Restriction*** – A permanent deed restriction of Affordable Housing meeting the requirements of Section XXIX-G(5), the statutory requirements in M.G.L. Chapter 184, Section 31, the standards set out in 760 CMR 56.03(2) and the Massachusetts Department of Housing and Community Development's (DHCD's) applicable guidelines for eligibility on Newburyport's Subsidized Housing Inventory (SHI).

***Affordable Rental Unit*** – An Affordable Housing unit required to be rented to an Eligible Household.

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

***As-of-right*** – A use allowed under Section XXIX-D without recourse to a special permit, variance, zoning amendment, or other form of zoning relief. A Project that requires Plan Approval by the Plan Approval Authority (PAA) pursuant to Sections XXIX-H through XXIX-I shall be considered an As-of-right Project subject only to the requirements of this Section.

***Developable Land*** – All land within the SGD that can be feasibly developed into a Project. Developable Land shall not include:

- (1) Substantially Developed Land
- (2) Open Space
- (3) Future Open Space;
- (4) 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 under federal, state, or local laws;
  - (b) rare species habitat designated under federal or state law;
  - (c) areas of steep slopes with an average gradient of at least 15%; or
  - (d) land subject to any other local ordinance, by-law, or regulation in effect as of the effective date of this ordinance, that would prevent the development of a residential Project at the As-of-right residential densities set forth in this Section.

**Eligible Household** – Individuals and households whose annual income is less than eighty percent (80%) of the Area-wide Median Income (AMI) as determined by the United States Department of Housing and Urban Development (HUD), adjusted for household size and using HUD’s rules for attribution of income to assets

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

**Live-Work Unit** – A dwelling unit, located within a Multi-Family building, that combines a commercial activity allowed in the zone with a residential living space for the owner or operator of the commercial business and that person's household.

**Mixed Use** – For the purposes of this Section, mixed use shall mean a combination of multi-family residential and non-residential uses, listed in Section XXIX-D(1)(b), where the non-residential uses are primarily on the first floor of a multi-story structure or in a separate structure on the same site as a multi-family residential structure.

**Monitoring Agent** – A qualified housing entity designated by the Plan Approval Authority pursuant to this Section for the purposes of reviewing, implementing and monitoring the affordability requirements affecting Projects permitted under this Section. The Monitoring Agent may be recommended by the developer, but shall be designated by and answerable to the PAA.

**Multi-family Residential Use** – For purposes of this section, "multi-family residential use" shall mean apartment or condominium units in buildings that contain or will contain more than three such units.

**Open Space** – Land dedicated in perpetuity to protect one or more of the following: land for existing and future well fields, aquifers, and recharge areas; watershed land; agricultural land; grasslands; fields; forest land; fresh and salt water marshes and other wetlands; ocean, river, stream, lake and pond frontage; beaches, dunes, and other coastal lands; lands to protect scenic vistas; land for wildlife or nature preserves; land for recreational use; parklands, plazas, playgrounds, and reservations; and cemeteries. Open Space may be in public, private, or nonprofit ownership. Any land subject to protection under Article 97 of the Massachusetts Constitution shall be deemed Open Space for the purposes of 760 CMR 59.00.

**Plan Approval** – Standards and procedures which a Project in the SGD 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 SGD, the Newburyport Planning Board, consistent with G.L. Chapter 40R and 760 CMR 59.00, shall be the Plan Approval Authority (the “PAA”), and is authorized to approve Projects consistent with this Section.

**Project or Development Project** – A development project undertaken within the SGD in accordance with the requirements of this Section.

**Public and Semi-Public Common Space** – Plazas, courtyards, gardens, and similar quasi-public spaces intended for use by residents and the general public.

**SGD** – The Smart Growth District established in accordance with this Section.

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

- a) Increasing the availability of Affordable housing by creating a range of housing opportunities in neighborhoods;
- b) Emphasizing mixing land uses;
- c) Taking advantage of compact design;
- d) Fostering distinctive and attractive communities;
- e) Preserving open space, farmland, natural beauty and critical environmental areas;
- f) Strengthening existing communities;
- g) Providing a variety of transportation choices;
- h) Making development decisions predictable, fair and cost effective; and
- i) Encouraging community and stakeholder collaboration in development decisions.

**Sprawl** – Inefficient and irresponsible low density development patterns that create artificial geographic barriers between normal daily activities, are auto-dependent, destroy green space, overextend infrastructure, increase traffic and air pollution, unnecessarily segregate land uses, reduce transportation and housing choices, and threaten a community’s cohesiveness and sense of place.

**Substantially Developed Land** – Land within a District that is currently used for commercial, industrial, institutional, or governmental use, or for residential use consistent with or exceeding the densities allowable under the Underlying Zoning, and which does not qualify as Underutilized Land.

**Sustainable Development** – Development that meets the needs of the present without compromising the ability of future generations to meet their own needs. Sustainable development calls for a departure from “Sprawl” development patterns and a return to more historic growth patterns in the region – focused growth in city centers, near transit and existing infrastructure. By focusing growth in areas equipped to support it, the region helps preserve both environmental and financial resources that would be lost to sprawling, low-density development. Sustainable development means developing and preserving land in a way that provides high-quality neighborhoods for all residents; preserves our built and natural heritage; expands choice and opportunity in housing, jobs, and transportation; and is fair for people of all backgrounds. The

Commonwealth of Massachusetts has identified the following Sustainable Development Principles for the purposes of characterizing “Smart Growth” development:

- a) Concentrate Development and Mix Uses
- b) Advance Equity
- c) Make Efficient Decisions
- d) Protect Land and Ecosystems
- e) Use Natural Resources Wisely
- f) Expand Housing Opportunities
- g) Provide Transportation Choice
- h) Increase Job and Business Opportunities
- i) Promote Clean Energy
- j) Plan Regionally

***Underutilized Land*** – Developable Land within a District that would otherwise qualify as Substantially Developed Land, but which:

- a. is characterized by improvements that have a marginal or significantly declining use, as measured by such factors as residual Floor Area Ratio (FAR), vacancy rates, extent of operation, current and projected employment levels, market demand for the current uses or the uses to which the existing improvements could readily be converted, and low value of improvements in relation to land value; and
- b. as demonstrated by existing or anticipated market conditions, may have reasonable potential to be developed, recycled, or converted into residential or Mixed-use Development consistent with Smart Growth.

***Zoning Ordinance*** – The Zoning Ordinance of the City of Newburyport, Massachusetts.

#### **XXIX-D Permitted Uses.**

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- 1. The following uses are permitted as-of-right with Plan Approval for Projects within the SGD subject to the requirements of this Section:
  - a. Multi-family Residential Uses, including so-called “Live-Work” Units pursuant to Section XXIX-D(1)(c) below.
  - b. Mixed-use Development Projects incorporating Multi-family Residential Use and any of the following non-residential uses, such non-residential uses to be primarily located on the first floor of proposed buildings:
    - i. Hotel/Inn, including conference and meeting facilities (South of Parker Street only)
    - ii. Bed and Breakfast
    - iii. Retail trade
    - iv. Retail services, including banks
    - v. Health/recreation, including gym/fitness centers

- vi. Entertainment/Clubs (South of Parker Street only)
- vii. Nursery School/Day Care
- viii. Professional/social service/office, including medical offices
- ix. Neighborhood bakeries/Delis
- x. Restaurant
- xi. Outdoor Café
- xii. Private Parking
- xiii. Parking structure

The City's intent in requiring that nonresidential use of the first floor of the building or adequate design therefor is to encourage redevelopment that will generate pedestrian activity and complement the existing mix of uses in the neighborhood.

- c. Live-Work Units: The PAA may allow a portion of both ground floor commercial and/or upper level residential areas to be used for live-work units, which combine personal living space with professional workspace in such a way that neither is compromised. Proposals to include live-work space in a Project shall be reviewed by the PAA on a case-by-case basis.
  - d. Parking accessory to any of the above-permitted uses, including surface, underground garage and/or structured parking;
  - e. Accessory uses customarily incidental to any of the above-permitted uses.
2. **Consistency with State Requirements:** Any Project undertaken within the SGD in accordance with this Section shall comply with the requirements of the Smart Growth Zoning Overlay District Program created by M.G.L. Chapter 40R and the regulations administered by the Massachusetts Department of Housing and Community Development (DHCD) in 760 CMR 59.00, as any of them may be amended, from time to time.
  3. **Consistency with Design Standards:** Any Project undertaken within the SGD in accordance with this Section shall comply with the Design Standards found in Section XXIX-I.

#### **XXIX-E Prohibited Uses.**

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1. Except as provided in Section XXIX-D (Permitted Uses) any other use of land or buildings in connection with a SGD Project is hereby prohibited.

#### **XXIX-F Dimensional & Parking Requirements.**

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##### **1. Residential Density Requirements**

- a) Multi Family Residential Use and Mixed Use Projects in the SGD may be developed as-of-right at a minimum density of twenty (20) dwelling units per acre up to thirty (30) units per acre of Developable Land or Substantially Developed Land in Subdistrict "B", and up to forty (40) units per acre of Developable Land or Substantially Developed Land in Subdistrict "A".
- b) Where a Project involves multiple parcels of land, minimum and maximum densities shall be calculated on the development of the Project area as a whole, provided that affordable units

required pursuant to Section XXIX-G shall be represented proportionately across a Project's Subdistricts, in accordance with Section XXIX-F(1)(a).

- c) The minimum allowable as-of-right density requirements for residential use specified in Section XXIX-F(1)(a) shall apply proportionately to the residential portion of any Mixed-use Development Project.
- d) No less than ten percent (10%) of the required affordable units within a Project shall be three-bedroom units.

## **2. Lot Area, Frontage, and Yard Setbacks.**

- a) Each lot within a Project shall comply with the following requirements:

i.	Minimum lot (Project) area	10,000 square feet
ii.	Minimum length of frontage	40 feet
iii.	Minimum front yard setback	no requirement
iv.	Maximum front yard setback	10 feet <i>(except where existing utility easements make this setback infeasible)</i>
v.	Minimum side yard setback	no requirement
vi.	Minimum rear yard setback	no requirement

- b) For the purposes of this section, frontage shall be determined with respect to public and private streets, as well as to private ways providing similar access.
- c) For the purposes of this section, front yard setbacks shall be determined with respect to public and private streets, or private ways providing similar access. For Projects abutting the Commuter Rail Station and/or Clipper City Rail Trail front yards may be located along such rights-of-way in lieu of street rights-of-way.
- d) Individual buildings or parcels within a Project site shall have coordinated street access. There shall be not more than one driveway (curb cut) per 100 feet of frontage.

## **3. Undeveloped Area.**

At least 20% of the Developable and/or Substantially Developed Land shall be left undeveloped as public or semi-public common space, or vegetated landscape, and such undeveloped areas shall not include buildings, structures, parking areas, or internal landscaping in parking lots, but may include wetlands, wetland buffer areas, and floodplains. Landscaped areas intended for public use shall have direct access to any adjacent pedestrian or bicycle network. The PAA may allow reductions to the minimum area required under this subsection where a developer proposes the use of certain low impact development techniques and/or improvements to adjacent public spaces such as the Rail Trail or MBTA Station.

## **4. Building and structure height, bulk, and separation.**

Buildings and structures in a Project shall comply with the following requirements.

Maximum Building/Structure Height†:



Within Subdistrict A\*: 4 stories / 50 ft

Within Subdistrict B: 3 stories / 35 ft

\*Within 250 feet of the Commuter Rail Station Right-of-Way, south of Parker Street: 5 stories / 60 ft

†As measured from average surrounding grade. Does not include common rooftop appurtenances such as stairwells or elevator shafts.

Maximum height of mechanical penthouses\*\*: 5 feet above the maximum building height

*\*\*Provided they are properly screened, do not exceed twenty (20) percent of the total building footprint, and are no closer than 10 feet to the exterior wall of any building.*

Maximum Building/Structure Footprint: 10,000 sq. ft.\*\*\*

*\*\*\*Within 250 feet of the Commuter Rail Station and Clipper City Rail Trail building footprints may be a maximum of 22,000 sq.ft.*

5. **Non-Residential Floor Area.** The total gross floor area devoted to non-residential uses within a Mixed-use Development Project shall not exceed 33% of the total gross floor area of the Project. Live-work space shall not be considered a non-residential use and shall not count toward the maximum 33% of total gross floor area within the Project.

## 6. Parking Requirements

- a) **Number of Parking Spaces.** Unless otherwise approved by the PAA, the following minimum number of off-street parking spaces for each Project shall be provided in surface parking, underground garages, and/or structured parking:

Use	Minimum Requirement	Maximum Allowed
Residential	1 per dwelling unit	1.5 per dwelling unit
Hotel/Inn	0.7 per guest room	1 per guest room
Office	2 per 1,000 sq. ft. GFA	2 per 1,000 sq. ft. GFA
Retail	2 per 1,000 sq. ft. GFA	2 per 1,000 sq. ft. GFA
Restaurant	0.7 per 100 sq. ft. GFA	0.7 per 100 sq. ft. GFA
Outdoor café	0 (no requirement)	0.5 per table
Other uses	2 per 1,000 sq. ft. GFA	2 per 1,000 sq. ft. GFA

Parking requirements may be met by off-street parking and by on-street parking on private streets within the Project site.

- b) **Shared Parking Spaces.** Notwithstanding anything to the contrary herein, 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). The Project may also share parking with neighboring mixed use developments with approval from the PAA.
- c) **Reduction in Number of Parking Spaces.** 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 a lesser amount of parking will provide positive environmental or other benefits.
- d) **Size of Parking Spaces:** Standard parking spaces shall be 9 feet x 18 feet and parallel spaces shall be at least 9 feet x 20 feet. Up to 35% of the parking spaces may be designated as compact spaces (at least 8 feet x 15 feet). An applicant may propose compact spaces (at least 8 feet x 15 feet) for all designated and/or assigned residential parking spaces.
- e) **Bicycle Parking:** Covered bicycle parking facilities shall be integrated into all components of the Project and shall be provided at the rate of 3 bicycle spaces per 10 vehicle parking spaces.

#### **XXIX-G Requirements for Housing Affordability.**

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1. **Marketing Plan.** An Applicant for Plan Approval of a Project within the SGD must submit a narrative document and affirmative fair housing 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, to be submitted with a Plan Approval application, the form of which must be approved by DHCD, shall include details about the design and construction of units that are accessible to the disabled.
2. **Number of Affordable Housing Units.** For all Projects that contain ten (10) or more dwelling units, not less than twenty-five percent (25%) of housing units constructed shall be Affordable Housing. For purposes of calculating the number of units of Affordable Housing required within a Project, any fractional unit shall be deemed to constitute a whole unit. Unless the PAA provides a waiver on the basis that the Project is not otherwise financially feasible, twenty-five percent (25%) of rental dwelling units constructed in a Project containing rental units must be affordable Rental Units. Projects shall not be segmented to evade this requirement for affordability.
3. **Affordable Housing Requirements.** Affordable Housing shall comply with the following requirements:

- a) The monthly rent payment, including utilities and parking, for an Affordable Rental Unit shall not exceed ninety percent (90%) of monthly rent payment for the Project's comparable market rate unit and shall not exceed thirty percent (30%) of the maximum monthly income allowable 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 thirty percent (30%) of the maximum monthly income allowable 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 and occupied only by Eligible Households.

#### **4. Design and Construction:**

- a) With respect to the minimum percentage required, units of Affordable Housing shall be equitably and proportionately dispersed throughout the Project of which they are part, including by each unit type offered, in accordance with the fair housing marketing and selection plan approved by DHCD. Units of Affordable Housing must be comparable in initial construction quality and have interiors and exteriors that are equivalent in design and materials to the other housing units in the Project.
- b) The average number of bedrooms in the Affordable Housing units shall be no less than the average number of bedrooms in all the units in the Project of which the Affordable Housing is part.

#### **5. Affordable Housing Restriction:** Each unit of Affordable Housing shall be subject to an Affordable Housing Restriction which is recorded with the Essex County Registry of Deeds or district registry of the Land Court and which contains the following:

- a) specification of the term of the affordable housing restriction which shall be in perpetuity, or for the life of the permitted Project, whichever is shorter;
- b) the name and address of the Monitoring Agent with a designation of its power to monitor and enforce the Affordable Housing Restriction;
- c) for Affordable Homeownership Units, the address and number of bedrooms;
- d) for Affordable Rental Units, the initial unit assignments, the total number of units, the total number of bedrooms, and a breakdown of the number of units by the number of bedrooms;
- e) the restriction shall apply individually to the specifically identified Affordable Homeownership Unit;
- f) the restriction shall apply to a percentage of each unit model/type within a rental Project or the rental portion of a Project without specific unit identification beyond the initial assignments.
- g) 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. If approved by DHCD, the housing marketing and selection plan may provide for local preferences in resident selection 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;

- h) a requirement that buyers or tenants will be selected at the initial sale or rental and upon all subsequent sales or rentals from a list of Eligible Households compiled in accordance with the housing marketing and selection plan;
- i) reference to the formula pursuant to which rent of an Affordable Rental Unit or the maximum resale price of an Affordable Homeownership Unit will be set;
- j) a requirement that only an Eligible Household may reside in Affordable Housing and that notice of any lease or sublease of any Affordable Rental Unit shall be given to the Monitoring Agent;
- k) provision for effective monitoring and enforcement of the terms and provisions of the Affordable Housing Restriction by the Monitoring Agent;
- l) 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 municipality in a form approved by municipal counsel, and shall limit rental and occupancy to an Eligible Household.
- m) provision that the restriction on an Affordable Homeownership Unit shall run in favor of the Monitoring Agent and the municipality, in a form approved by municipal counsel, and shall limit initial sale and re-sale to and occupancy by an Eligible Household;
- n) provision that the owner[s] or manager[s] of Affordable Rental Unit[s] shall file an annual report to the Monitoring Agent, in a form specified by that agent certifying compliance with the Affordable Housing provisions of this Ordinance and containing such other information as may be reasonably requested in order to ensure affordability;
- o) 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:** The Monitoring Agent shall be a qualified housing entity designated by the PAA. In a case where the Monitoring Agent cannot adequately carry out its administrative duties, such duties shall devolve to and thereafter be administered by a qualified housing entity with approval of the PAA. In any event, such agency shall ensure the following:

- 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 conforms to all requirements, has been approved by DHCD specifically with regard to conformance with M.G.L. Chapter 40R and 760 CMR 59.00, 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.

7. **Costs of Housing Marketing and Selection Plan:** The housing marketing and selection plan may provide for payment by the Applicant of reasonable costs to the Monitoring Agency to develop, advertise, and maintain the list of Eligible Households and to monitor and enforce compliance with affordability requirements.

8. **Age Restrictions:** Nothing in this Section shall permit the imposition of restrictions on age upon Projects throughout the entire SGD. However, the PAA may, in its review of a submission under this Section, allow a specific Project within the SGD designated 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 and not less than twenty-five percent (25%) of the housing units in such a restricted Project shall be restricted as Affordable units.
9. **Project Phasing:** For Projects that are approved and developed in phases, the percentage of Affordable Housing Units in any single phase shall not be less than the overall minimum percentage required for the Project under Section XXIX-G(2).
10. **Computation:** Prior to the granting of any building permit for the residential 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 City of Newburyport.
11. **No Waiver:** Notwithstanding anything to the contrary herein, the affordability provisions in this Section shall not be waived.

## **XXIX-H Permitting Procedure & Criteria for Approval.**

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### **1. Application for Plan Approval:**

- a) Pre-Application Guidance. Prior to the formal submittal of a Project site plan, a Concept Plan may be submitted to the Office of Planning & Development for review in order to help guide the development of the definitive site plan for Project buildout and individual elements thereof. For each Project the Concept Plan shall show the following:
  - i. A description of the proposed project indicating proposed uses, number of residential units, and total square footage devoted to non-residential uses
  - ii. Schematic site plan indicating the location of building footprints, parking areas, public and semi-public common spaces, natural resource areas, site improvements and amenities;
  - iii. Schematic building floor plans and elevations.

The Concept Plan is intended to be used as a tool for both the Applicant and the PAA to ensure that the proposed Project will be consistent with the Design Standards and other requirements within the SGD.
- b) Pre-Application Meeting: Prior to a formal submission to the PAA, all applicants are encouraged to schedule an informal meeting with Director of Planning & Development.
- c) Application Submission. Applications for Projects within the SGD shall be submitted to the PAA through the Office of Planning & Development. Applications shall be submitted to the PAA on the standardized form provided by the PAA and Office of Planning & Development, along with application fee(s) which shall be established by the PAA,

subject to approval by DHCD. Applicants shall provide to the office of planning and development an electronic copy of all required submittals in PDF, Word or other native file formats, along with a CAD drawing format for all site and architectural plans.

- d) Required Submittals. The Office of Planning and Development shall develop a standardized application form for Projects within the SGD for use by the PAA and applicants, and for the purposes of determining the completeness of all applications in accordance with this section. The application form and any amendments thereafter must be approved by DHCD. No information or submittals not explicitly required under this Section or in the application form can be required without DHCD approval. Each application for Plan Approval within the SGD shall be submitted electronically to the Director of Planning & Development along with hard copies of the entire application as indicated on the application form. All applications must include the following:
- i. Completed Application Form.
  - ii. Application & Advertisement Fees, such fees to be established by the PAA, based upon the associated administrative costs. Such fees and any subsequent increases shall not take effect until approved by DHCD and filed with the City Clerk.
  - iii. Development narrative including a description of the proposed Project, including all uses, breakdown of square footage for each use, number of housing units, number of bedrooms per unit, square footage per unit type and a zoning summary. Any application shall show the full proposed buildout of a Project (both residential and commercial) and whether the Project will be phased or not.
  - iv. Certified list of abutters
  - v. Building Floor Plans – all levels including basement and roof
  - vi. Building Elevations – all sides including courtyards and interior lot elevations (Scale shall not exceed 1/4 inch equals one foot nor less than 1/8 inch equals one foot.)
  - vii. Three dimensional (3D) massing perspective sketches or perspective renderings illustrating the proposed building(s) and other key elements of the development proposal within its neighborhood context
  - viii. Storm water management plan and report with drainage calculations and proposed Operation and Maintenance (O&M) Plan.
  - ix. Existing Conditions Plan: Existing Site plan, including all existing structures, parking, driveways, trees, topography, utilities and easements, prepared by a licensed surveyor.

- x. Project Plans: Plans of the proposed Project at a minimum scale of one inch equals 40 feet and a maximum scale of one inch equals 20 feet. The Plans shall contain:
  - a. Date of Plan with all revisions noted and dated. Title of development; North arrow; scale; map and lot number; name and address of record owner; name and address of person preparing the Plan.
  - b. The names of all owners of record of adjacent properties, and the address, map and lot number of the properties and all buildings.
  - c. Zoning district boundaries and flood zone boundaries shall be shown as they affect the property, including delineation of required setback lines.
  - d. Boundaries of the property and lines of existing street, lots, easements and areas dedicated to public use, including rights-of-way.
  - e. A locus map with lot and address identifications in relation to adjacent streets and rights-of-way showing the location of the property with reference to surrounding area, including the building footprints of adjacent buildings, if any.
  - f. A table indicating all calculations necessary to determine conformance to the requirements of this Section and applicable Design Standards.
  - g. Square footage of property to the nearest 10 square feet.
  - h. Proposed site plan, indicating project boundaries, building footprints, onsite and remote parking areas (where applicable), and topography
  - i. Location of existing and proposed buildings, walls, fences, culverts, parking areas, loading areas, walkways and driveways.
  - j. Location and dimensions of utilities, gas, telephone, electrical, communications, water, drainage, sewer and other waste disposal.
  - k. Location, type and dimensions of landscaping and screening.
  - l. Proposed exterior lighting plan with photometric information
  - m. Location of existing rock outcroppings, high points, vistas, ponds, depressions, wetlands and buffer zones, major trees (twelve-inch caliper and over) and any other significant existing features.
  - n. Two-foot contours where slopes are less than 15% and five-foot contours when 15% or more. Existing contours shall be indicated by dashed line. Proposed contours shall be indicated by solid line.

All site plans shall be prepared by an 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.

- xi. Evidence that the Project complies with the affordable housing requirements of Section XXIX-G;
- xii. A form of Affordable Housing Restriction that satisfies the requirements of Section XXIX-G(5).

xiii. Peer review fee in accordance with the Fee Schedule adopted by the PAA.

- e) Waivers: The PAA may waive any of the above submittal requirements if it determines that the applicable materials will not aid the PAA in its deliberations. Any such waiver of submission requirements must be requested by the applicant and subsequently approved in writing by the PAA prior to submission of a formal application under this Section.

## **2. Procedures:**

- a) Plan Approval Authority: For purposes of reviewing Project applications and issuing decisions on Projects within the SGD, the Newburyport Planning Board, consistent with G.L. Chapter 40R and 760 CMR 59.00, shall be the Plan Approval Authority, and is authorized to approve a Project consistent with this Section.
- b) Circulation to Other Boards: Upon receipt of the Application, the PAA shall immediately provide a copy of the application materials to the Board of Health, Conservation Commission, Affordable Housing Trust, Fire Department, Police Department, Building Commissioner, Department of Public Services, and other municipal officers, agencies or boards as designated by the PAA for comment, and any such board, agency or officer shall provide any written comments within thirty (30) days of its receipt of a copy of the plan and application for approval.
- c) Public Hearing. The PAA shall hold a public hearing for which notice has been given as provided in Section 11 of M.G.L. Chapter 40A. The decision of the PAA shall be made, and a written notice of the decision filed with the City Clerk, within one hundred twenty (120) days of the receipt of the complete application by the City 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 City 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 Plan Approval application.
- d) Peer Review & Employment of Outside Consultants. The Applicant shall be required to pay for reasonable consulting fees to provide peer review of the Plan Approval application, pursuant to M.G.L. Chapter 40R, Section 11(a). Such fees shall be held by the City 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 forthwith.

## **3. Decision:**

- a) Plan Review: A Plan Approval application shall be reviewed for consistency with the purpose and intent of this Section, and with the dimensional, parking, Design Standards & Guidelines and other requirements applicable to the SGD. Such Plan Approval application shall be construed as an as-of-right review and approval process as required by and in accordance with the Enabling Laws.



- b) Consistency with Design Standards: To ensure that Projects shall be of high quality, and shall meet the standards envisioned by the City of Newburyport in adopting Smart Growth Zoning, the physical character of the any Project within the SGD shall comply with, and the PAA shall enforce, the Design Standards of Section XXIX-I in the issuance of Plan Approval for any Project within the SGD. A Project shall be approved by the PAA upon a finding of consistency with the Design Standards, unless otherwise waived pursuant to Section XXIX-H(3)(c). Conditions may be added to a Plan Approval as may be necessary to ensure consistency with the Design Standards through project construction prior to occupancy.
- c) Waivers: Upon the request of the Applicant, the PAA may waive or reduce the dimensional and/or parking requirements of Section XXIX-F and Design Standards of Section XXIX-I, 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 SGD, or if it finds that such waiver will allow the Project to achieve the density, affordability, mix of uses, and/or physical character preferred under this Section.
- d) Plan Approval: Plan Approval shall be granted where the PAA finds that:
- i. the Applicant has submitted the required fees and application materials as set forth in Section XXIX-H(1)(d); and
  - ii. the proposed Project meets the requirements of Section XXIX-G (Requirements for Housing Affordability); and
  - iii. the proposed Project meets the requirements of Section XXIX-F (Dimensional and Parking Requirements) and Section XXIX-I (Design Standards), or a waiver has been granted therefrom; and
  - iv. Adverse potential impacts of the Project on nearby properties have been adequately mitigated.
- e) Plan Disapproval: A site plan may be disapproved only where the PAA finds that:
- i. the Applicant has not submitted the required fees and/or application materials as set forth in Section XXIX-H(1)(d) necessary for an adequate and timely review of the design of the Project or potential project impacts; or
  - ii. the proposed Project fails to meet the requirements of Section XXIX-F (Dimensional and Parking Requirements) and/or Section XXIX-I (Design Standards) and a waiver has not been granted therefrom; or
  - v. the proposed Project fails to meet the requirements of Section XXIX-G (Requirements for Housing Affordability); or
  - iii. it is not possible to adequately mitigate significant adverse Project impacts on nearby properties by means of suitable conditions.
- f) 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 and documents that were the subject of the decision, and certifying that a copy of the decision has been filed with the City 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 City Clerk without an appeal having been filed or if such appeal, having been filed, is dismissed or denied, the City Clerk shall so certify on a copy of the decision. If a plan is approved by reason of a failure of the PAA to timely act, the City Clerk shall make such certification on a copy of the application. 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.

- g) Timeline for Approval or Decision: The PAA shall file a decision on the application for Plan Approval within one hundred and twenty (120) days from the date of original filing of the application with the PAA. An Applicant who seeks approval because of the PAA's failure to act on an application within the one hundred twenty (120) days or extended time, if applicable, must notify the City Clerk in writing of such approval, within fourteen (14) days from the expiration of said time limit for a decision, and that a copy of that notice has been sent by the Applicant to the parties in interest by mail and that each such notice specifies that appeals, if any, shall be made pursuant to Mass. Gen. Laws Ch. 40R and shall be filed within twenty (20) days after the date the City Clerk received such written notice from the Applicant that the PAA failed to act within the time prescribed.

#### **4. Modifications to Projects and Permits after Initial Approval by PAA:**

- a. Minor Change. After Plan Approval, an Applicant may apply to make minor changes involving minor utility or building orientation adjustments, or minor changes to building materials or design, 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 City Clerk.
- b. 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, with all required submittals, for Plan Approval pursuant to this Section XXIX-H(1)(c).

#### **5. Project Phasing:**

- a. 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. Any requirement for Project phasing shall not apply to the installation of utilities.
- b. An Applicant may voluntarily elect to develop a Project in phases, subject to Plan Approval by the PAA.
- c. When a Project is developed in phases, each phase shall comply with the requirements of Sections XXIX-F (*Dimensional & Parking Requirements*) XXIX-G (*Requirements for Housing Affordability*), and Section XXIX-I (*Design Standards*) so that at all times such requirements shall be met as applied only to those portions of the Project for which building permits have been issued; such requirements shall be met prior to the issuance of certificates of occupancy for such buildings.
- d. The applicant shall provide the following information for each phase of the Project:

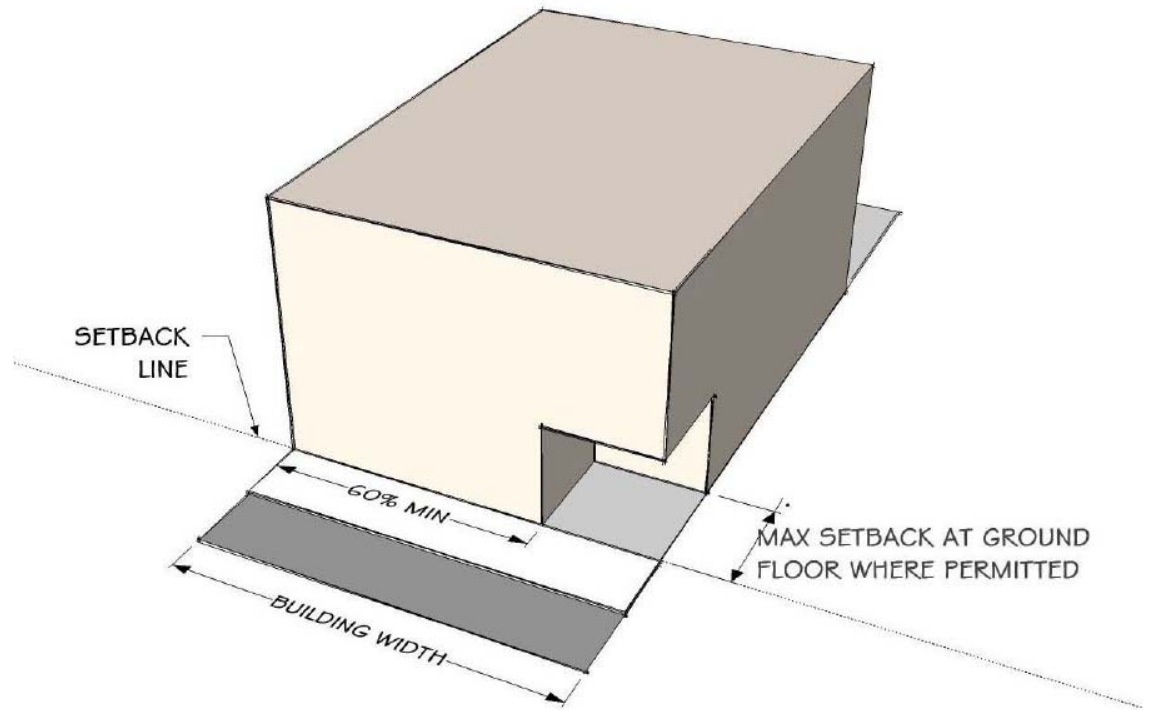
- i. Anticipated construction timeline with start and end dates;
- ii. Residential unit count, including a bedroom count and number of affordable units;
- iii. Square footage of commercial space; and
- iv. Landscaping details.

#### **XXIX-I Design Standards.**

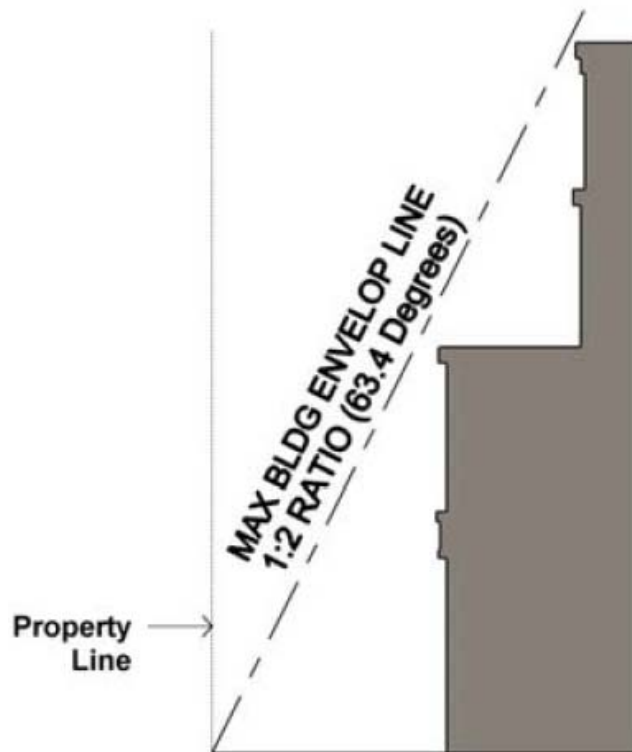
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1. **Authority:** The following Design Standards and Guidelines are adopted to ensure that new development shall be of high quality, and shall be compatible with the character and scale of Newburyport's building types and streetscapes, without limiting creativity through innovative architectural design. These Design Standards are adopted pursuant to the authority of M.G.L. Chapter 40R "Smart Growth Zoning" and 760 CMR 59.00 (Smart Growth Zoning Overlay District). Under the Enabling Laws, the SGD (Section XXIX), including these Design Standards, may not be amended without the approval of DHCD. The Design Standards provide the City of Newburyport and interested developers with a regulatory framework that will define the site and building design requirements for development within the City's Smart Growth District ("SGD" or "District").
2. **Applicability:** These Design Standards apply to all proposed development within the Smart Growth District (SGD) undertaken pursuant to this Section. An application for Plan Approval shall not be subject to Design Standards that have not been approved by DHCD and filed with the City Clerk. The PAA, at its discretion, can approve waivers from the Design Standards. Any Project undergoing the Plan Approval process within the SGD shall be subject to and shall adhere to the design standards set forth in this section, except where a specific waiver of compliance is granted by the PAA in its deliberations in accordance with Section XXIX-H(3)(c) upon a finding that, in its opinion, such deviations contribute to the Guiding Principles in Section XXIX-I(4) more effectively than literal compliance with specific requirements or that waiver of compliance will ensure the overall viability of a proposed Project in order to achieve the broader purposes identified in Section XXIX-A. Applicants should clarify how requested or proposed deviations further the goals of the City as defined by the Guiding Principles therein, including any references to overall feasibility of the proposed project.
3. **Compliance:** The Design Standards shall be used by the PAA in their review and consideration of development proposals within the SGD pursuant to this Section. All Projects permitted under this Section shall adhere to the following Design Standards, mandatory for all projects (including as-of-right uses), but which standards may be waived by the PAA pursuant to Section XXIX-H(3)(c) on a case-by-case basis.
4. **Design Guidelines:** It should be noted that the Design Standards include a mixture of requirements – indicated generally by the use of the words "shall" and "must" with regard to a specific standard – and guidelines which are more advisory in nature – indicated generally by the use of the words "should" and "may". Where appropriate the Design Standards and Design Guidelines are supplemented with "Acceptable" and "Unacceptable" graphic examples for illustrative purposes.
5. **Guiding Principles:** The standards set forth in this section are intended to ensure that the physical character of projects in the SGD will comply with the following guiding principles:

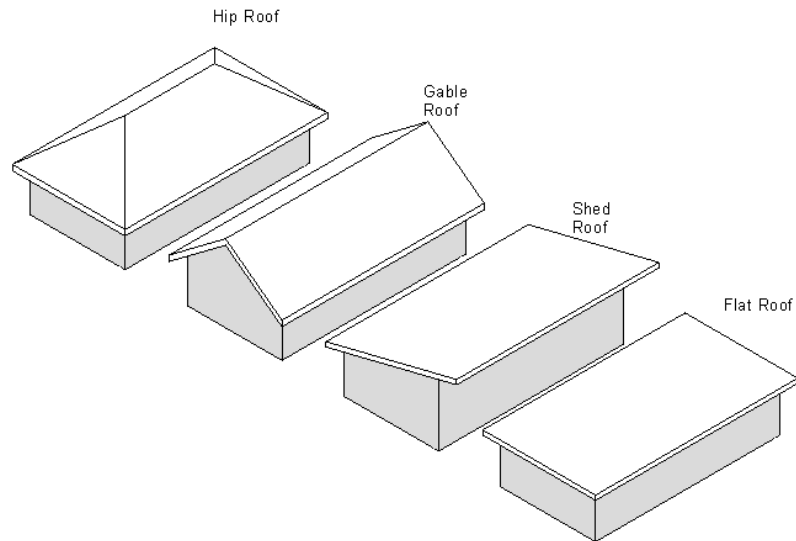
- a. Projects should further the overarching goals identified in Section XXIX-A;
  - b. Building styles and materials should be consistent with the character of Downtown Newburyport and should reflect, but need not match, the vernacular styles of traditional development forms as they pertain to scale, massing and proportions while allowing design creativity and the use of modern construction methods and materials;
  - c. Development should be environmentally sustainable and should incorporate to the degree practical low impact development techniques, energy efficiency, use of renewable energy and best practices for stormwater management;
  - d. Development should be designed to encourage pedestrian and bicycle travel to and within the site and provide a safe and aesthetically attractive pedestrian and bicycle environment;
  - e. Development should protect adjacent wetlands and the Little River; and
  - f. Existing natural resources, native vegetation, and the natural topography of the site should be preserved and integrated into the site design to the greatest extent practical.
6. **Organization:** This subsection is organized into subject headings based on the subject matter of regulation. Where it provides greater clarity regarding desired design outcomes, illustrative images have been used to complement these Design Standards & Guidelines. Captions have been added to images as necessary to clarify the intent of the illustration and to reinforce the Design Standards & Guidelines included in the text. These Design Standards and Guidelines establish the requirements for review of Projects within the Smart Growth District (SGD).
7. **Architecture:**
- a. **Massing, Scale, Height, Proportions, Orientation & Organization**
    - i. A minimum of 60% of front facades at ground level shall be located at the required setback line to reinforce the adjacent street or right-of-way line. When the space between the façade and setback line is specifically designed for pedestrian uses, such as outdoor dining, the maximum setback shall be permitted.



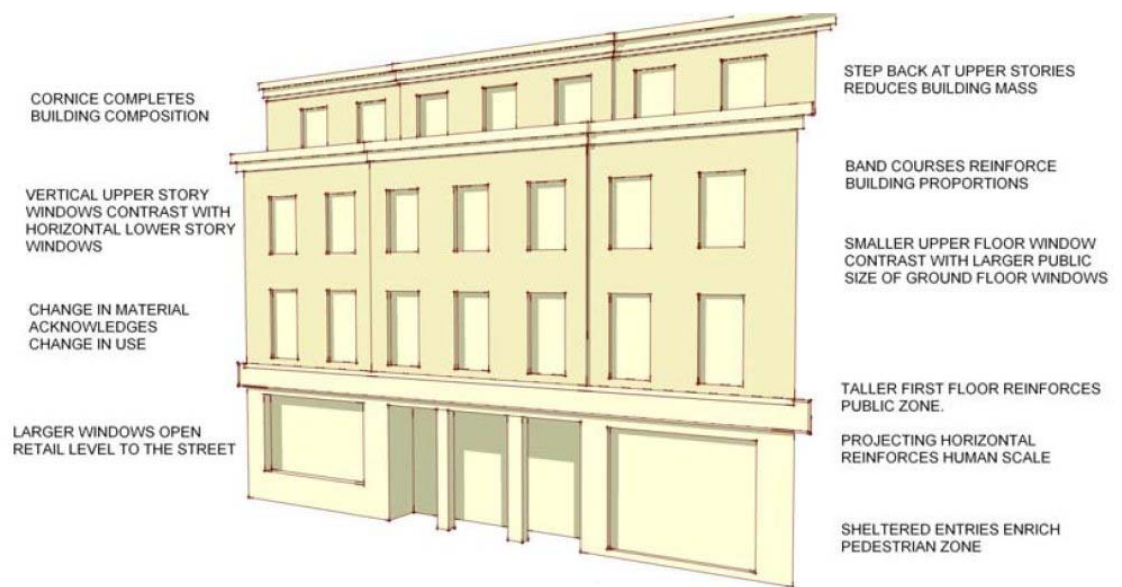
- ii. For buildings fronting on State Street, the front yard step-back of upper floor facades shall be such that the maximum building envelope is bounded by a plane projected from the property line at a 1 to 2 ratio (63.4°).



- iii. Within Subdistrict B, all buildings shall have pitched rooflines with gables and dormers in lieu of flat rooflines.



- iv. Mixed use buildings shall use proportions – a dominant horizontality in architectural elements for commercial, and a dominant verticality for residential – to give legibility to building uses.



- v. Building footprints shall be located roughly parallel with (within 10 degrees of) existing public streets, the MBTA Commuter Rail line, or the Clipper City Rail Trail, as applicable to the Project site, in order to reinforce the street line and other pedestrian access areas.
- vi. Wherever it abuts an existing or previously approved Project, new Projects should incorporate design transitions between new buildings and existing buildings, using comparable materials, roof design, fencing materials and landscaping as the existing or previously approved Project.
- vii. A new building may have an inconsistent setback from neighboring buildings if the front setback is to be used for landscaped public or semi-public space. Where differing front

setbacks are approved, design elements such as a wall, fencing or landscaping of a minimum height of three (3) feet shall be used to reinforce the street line.

**b. Exterior Style, Articulation & Appearance**

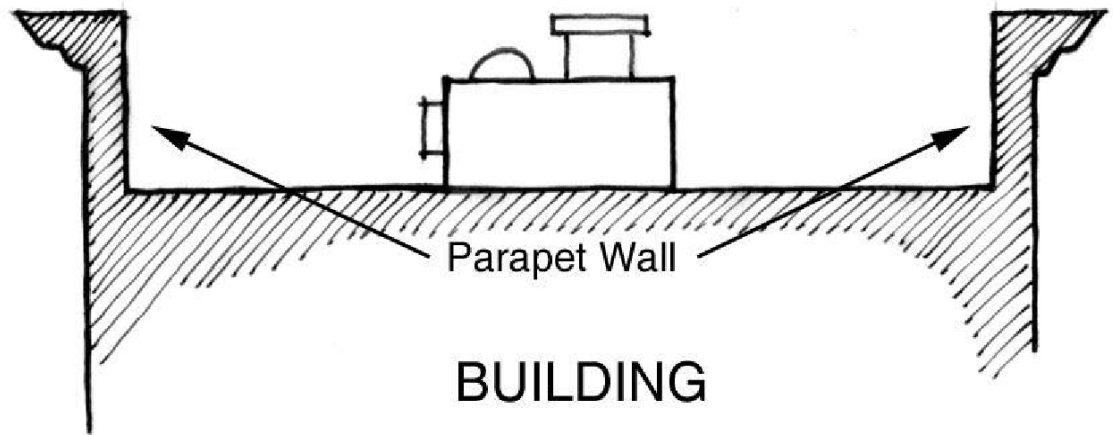
- i. To reduce a building's perceived mass, buildings shall be divided into smaller scale horizontal and vertical components. Building façades over forty feet (40') in length are required to have a change in plane every thirty (30') horizontal feet, articulated by projecting or recessed bays, balconies, or setbacks and should be broken into a series of smaller varied elements by incorporating projections or recesses, canopies, trellises or awnings, doorways or windows to vary the facade and emphasize architectural features. Projecting bays, recesses, and cornices are encouraged at all floor levels. A change in plane shall be accompanied by a change in color, material, texture and/or expressed joints and details. Recesses and projections of the building façades shall be a minimum of one (1) foot deep.



- ii. Windows, wall panels, pilasters, and building bays should be carried across building walls to relieve blank surfaces. False commercial storefronts are not permitted.
- iii. The architectural style of the primary façade shall be continued on all publicly visible sides of the building. Façade elements shall continue around to all sides of buildings visible from the street. Blank side and rear wall surfaces greater than twenty (20) linear feet are prohibited on walls that are visible from streets or other public areas. Elements may be simplified at the rear of buildings to clarify a front/back hierarchy.
- iv. Horizontal elements such as belt courses, projecting cornices, canopies, and step backs should be combined with vertical elements such as recesses, projecting bays, parapets and vertically aligned windows, to create facades that provide depth and visual interest.

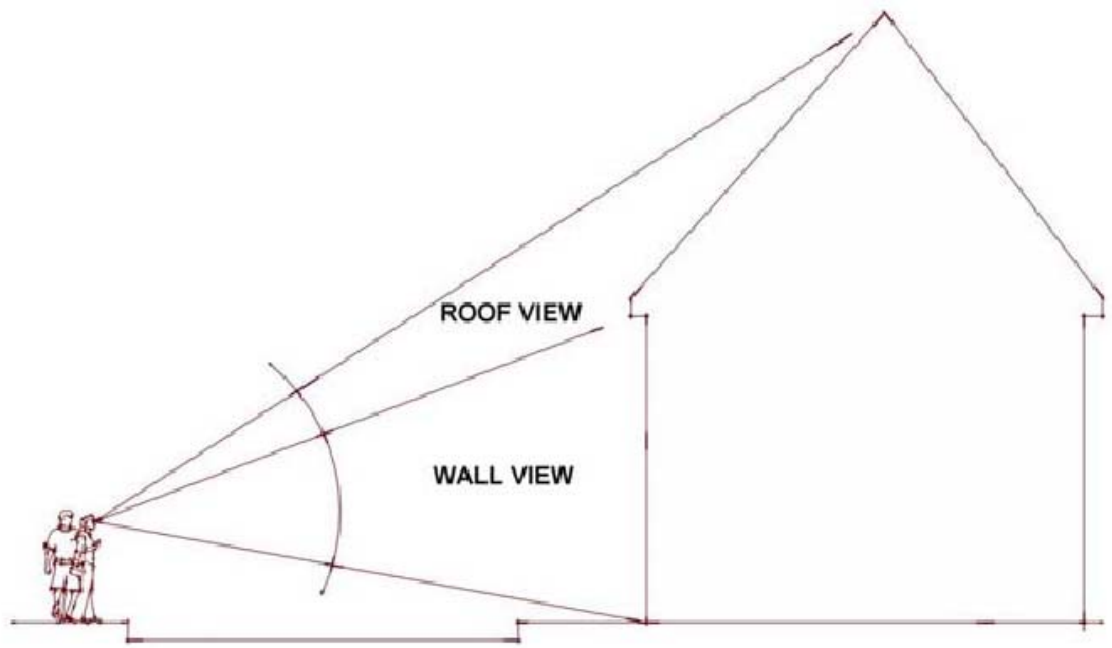


- v. Rooftop mechanical equipment, including metal chimneys, shall be set back from building facades so that it is not visible from street views, screened from view behind parapets or enclosed within architectural elements that integrate it into the building design. Screening elements shall incorporate sound control devices or construction that mitigates equipment noise. All mechanical equipment shall be screened from view from streets and from structures on adjacent lots using parapets, fencing, landscaping or similar measures; or they shall be integrated into the overall design of the building by use of materials, placement, roof shape or form, or other means deemed acceptable to the PAA upon their review of a screening plan.



- vi. For all buildings, visible roofs shall not exceed walls in their respective visible proportions from street views.





- vii. New construction should incorporate design detail through a combination of architectural elements (particularly on first floor facades), materials, varying setbacks and rooflines to ensure that buildings are visually interesting and to prevent monotony.
- viii. Any side of a building that has frontage on a sidewalk, street or right-of-way shall include a predominance of windows, doors, or other signs of human occupancy, such as porches or balconies.
- ix. Building design for multi-story buildings shall create or maintain a visual distinction between the first floor and upper floors through materials selection and articulation of the facade.



- x. The first floor of buildings within all Projects shall be designed with heights of twelve (12) feet floor to floor, to accommodate commercial or non-residential uses in the future, even if such uses are not proposed as part of the initial Project undertaken by the applicant. The design of walls and structural elements on the first floor of buildings shall demonstrate the ability to allow modification of residential spaces to accommodate such commercial or non-residential uses (i.e. storefronts) with relative ease in the event that such uses are substituted therefore in future years.
- xi. Accessory buildings shall be designed with the same materials and design elements as the primary building.

### c. Entries, Windows, Doorways & Balconies

- i. Primary ground floor commercial building entrances shall orient to plazas, parks, transit stops, or pedestrian-oriented streets.
- ii. Stepped back portions of the front façade at ground level are encouraged to articulate entries and provide variety.
- iii. Entries shall be clearly articulated with projecting canopies or recesses for convenience, way-finding, and to activate the street front and pedestrian spaces. Residential and commercial entries shall be separated. Primary building entrances shall be accentuated through such other pronounced architectural forms as covered porches and porticos.
- iv. Retail and commercial entries shall face a publicly accessible sidewalk and are to be primarily transparent to reinforce the public nature of the ground floor uses, and they are to be flanked by primarily transparent façade elements to reinforce this perception.

- v. Lighting and signs should be integrated into the entry design to reinforce the public nature of the entry.
- vi. Entries to upper floor residential and commercial uses are encouraged on public streets, but shall not interrupt the perceived continuity of the commercial streetscape.
- vii. In general, all windows should be taller than they are wide. A ratio of 1:1.6 is encouraged. This is true of windows on the first as well as upper floors. Street front windows that are horizontally oriented may be broken up with the use of muntins or similar elements. Double hung windows are generally preferred over casement windows for all residential units. Use of stone or masonry lintels above - and sills below - all windows is encouraged.



- viii. Recessed doorways are preferred, in order to break up the building façade, provide a welcoming space, and provide protection from sun and rain. Where a recessed doorway is not used, an awning can have a similar effect. Lighting for the doorway shall be provided at night.
- ix. Balconies and porches are encouraged to generate connection between the buildings and the streets and public spaces provided they do not extend over a public right-of-way, and shall be designed to provide functional use by the resident of the dwelling unit, and should not be simply decorative. Juliet Balconies may be permitted at the discretion of the PAA.



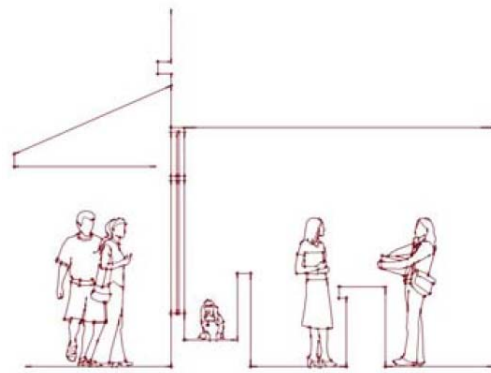
- x. All buildings shall have at least one primary entrance facing each pedestrian-oriented street, right of way or transit area.

#### d. Fenestration

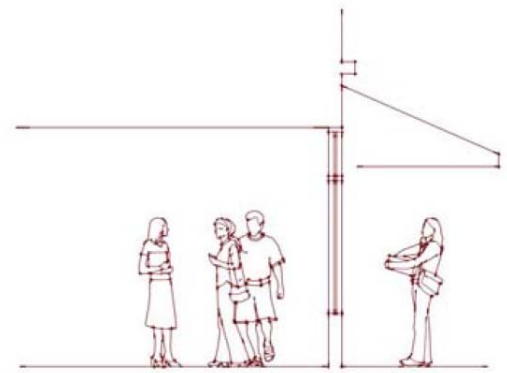
- i. For ground floor uses, at least 60 percent (60%) of the right-of-way or street-facing building façades between two feet and eight feet in height shall be comprised of transparent windows that allow views of indoor space or product display areas for all non-residential uses.



- ii. The view into the first floor commercial or retail windows shall be maintained with a view into the sales floor or seating area. View windows shall not be blocked. Merchandise displays shall not include full-height backdrops that block the view.



PRODUCT DISPLAY - BEST FOR RETAIL,  
~GENERATES HIGH PEDESTRIAN INTEREST  
~MAX UTILIZATION OF STOREFRONT  
~DOES NOT BLOCK VISIBILITY TO INTERIOR



ACTIVITY DISPLAY - FULL VIEW TO ACTIVITY  
~GOOD FOR RESTAURANT AND NON-RETAIL USES  
~MAX CONNECTION TO STREET LEVEL

- iii. Transom windows above view windows and doors are encouraged as are side lights around doorways. Upper floor residential and commercial uses shall have relatively less glass area to emphasize the public nature of the street-front uses. Glass shall be clear, or reflective only to the extent that such reflectivity reduces interior heat. Mirror glass is not permitted. No appliques or other such deliberate screening shall be permitted.
- iv. Protecting ground floor fenestration and defining commercial street fronts with overhanging awnings or canopies is encouraged. Operable windows and doors onto balconies and terraces at upper floor uses are encouraged.

#### e. Materials, Texture & Color

- i. Allowed exterior building finishes include, but are not limited to brick, brick veneer, stone, cast stone or other finished masonry, cementitious panels, glass, metal, wood, and cellular PVC trim. A combination of these materials shall be used in order to create visual interest. Simulated materials including but not limited to vinyl, synthetic siding, aluminum siding or large unarticulated expanses of Exterior Insulation Finishing System (EIFS) are prohibited. EIFS is allowed only on the upper stories of a building, shall not exceed thirty percent (30%) of a structure's facade on any side, and shall be detailed and articulated using scoring lines, patterns or other techniques. Reflective materials such as porcelain enamel, tinted glass or sheet metal are prohibited. Fluorescent colors, smooth-faced painted concrete masonry block, and vinyl and plastic awnings are prohibited.
- ii. Changes in materials are encouraged to reinforce the massing requirements noted above. When change in material or colors occur, they should articulate the difference between public and private uses, upper floors and lower floors. Building design should maintain a distinction between the first floor and upper floors.
- iii. Where more than one material is used, traditionally heavier materials (stone, brick, concrete, etc.) should be located below lighter materials (wood, metal, glass, etc.). The change in material should occur along a horizontal line, preferably at the floor level.



**f. Energy Efficiency**

- i. All buildings shall incorporate environmentally responsible design and construction practices as governed by the Energy Star Program to the extent feasible and applicants are strongly encouraged to receive US Green Building Council LEED (Leadership in Energy and Environmental Design) rating or other industry accepted program for all buildings. As previously adopted by the City, all projects shall meet or exceed the Commonwealth of Massachusetts Board of Building Regulations and Standards Stretch Code.
- ii. Applicants are strongly encouraged to incorporate the use of Solar Canopies in surface parking lots to provide electricity for the proposed building(s), site lighting or other purposes, and to provide shade and protection for parked vehicles.

**8. Site Design Standards**

**a. Placement, Alignment, Width and Condition of Sidewalks**

- i. New sidewalks shall be consistent with existing sidewalk materials and dimensions. Widened sidewalks devoted to outdoor uses are encouraged.
- ii. Amenities that increase the comfort of pedestrian movement along sidewalks such as lighting, projecting canopies, benches and street trees are encouraged.
- iii. Usable public and semi-public common spaces adjoining sidewalks that create activated pedestrian areas for dining or similar social activities are encouraged, especially those in the vicinity of public uses such as the commuter rail station.



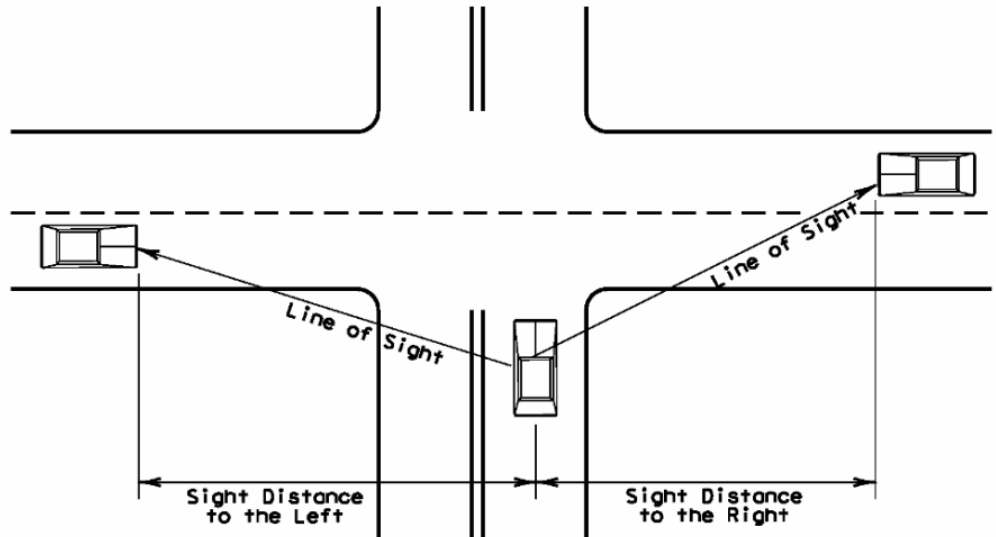


- iv. Each Project shall provide lighted pedestrian access to and through the site. Continuous sidewalks shall be provided along the frontage of a site adjacent to any public or private way except where adequate public walkways already exist. Pedestrian access shall be provided to link buildings with public and semi-public spaces, parking areas, recreation facilities, and sidewalks on adjacent properties.
- v. Where the proposed development abuts streets or public ways that lack sidewalks, or where sidewalks abutting the proposed development are cracked, broken, uneven or do not meet applicable standards (including the Americans with Disabilities Act, the Rules and Regulations of the Massachusetts Architectural Access Board, and standards issued by the Newburyport Department of Public Services), Applicants may be required to install, improve or relocate these connecting sidewalks (within 250 feet of the Project) as a condition of Plan Approval.
- vi. All elements of the pedestrian network, including parking areas and sidewalks, shall be accessible to the physically disabled in accordance with the Americans with Disabilities Act and the Rules and Regulations of the Massachusetts Architectural Access Board.
- vii. Where provided, sidewalks shall connect proposed buildings with parking intended to serve the proposed uses.
- viii. Sidewalks shall be a minimum width of five (5) feet.

#### **b. Location of Building & Garage Entrances**

- i. New curb cuts should be avoided where access from existing streets or driveways is feasible. Further, The PAA may require the reduction, replacement or relocation of existing curb cuts.
- ii. Building entrances shall provide direct access to sidewalks or paths to emphasize pedestrian ingress and egress as opposed to accommodating vehicles.

- iii. Access drives shall maintain sight lines for pedestrians and motor vehicles. Adequacy of vehicular sight distance shall be reviewed and determined in accordance with accepted AASHTO (American Association of State Highway and Transportation Officials) methodology based on posted or observed speeds on adjacent roadways.



**c. Vehicular Access**

- i. All curb cuts should be limited to the minimum width necessary for safe entering and exiting, and shall not exceed 24 feet in width except where mandated by MassDOT.
- ii. The developer shall make improvements on the adjacent public way for vehicular turning movements in or out of the site necessary to ensure public safety.
- iii. Vertical granite curbing shall be used at driveway entrances as they connect to a public way. Cementitious concrete curbing may be substituted for granite curbing in all internal roads, driveways, parking areas and private ways. The use of bituminous asphalt curbing is prohibited.
- iv. The location of motor vehicle entrances should provide for the convenience and safety of motor vehicle, bicycle and pedestrian movement within the site. All proposed entrances should be designed to afford pedestrians, bicyclists and motorists exiting to public ways with safe sight distance.

**d. Pedestrian & Bicycle Circulation, Amenities & Connections:**

- i. Sidewalks shall be constructed of brick, stone, pre-cast pavers or (subject to PAA approval of a materials sample prior to installation) cast-in place textured concrete.

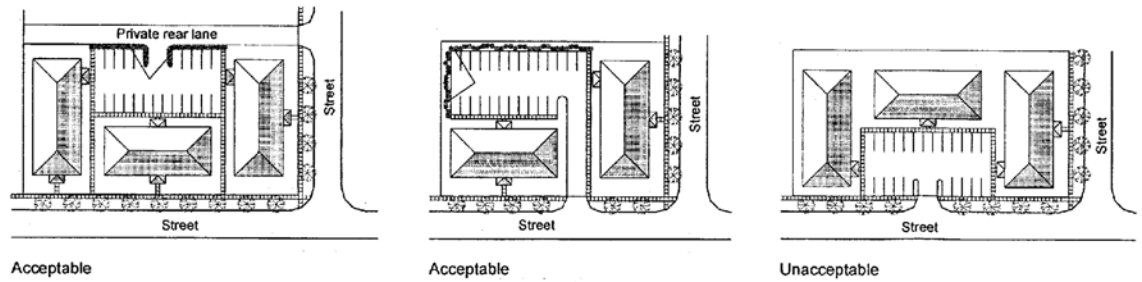




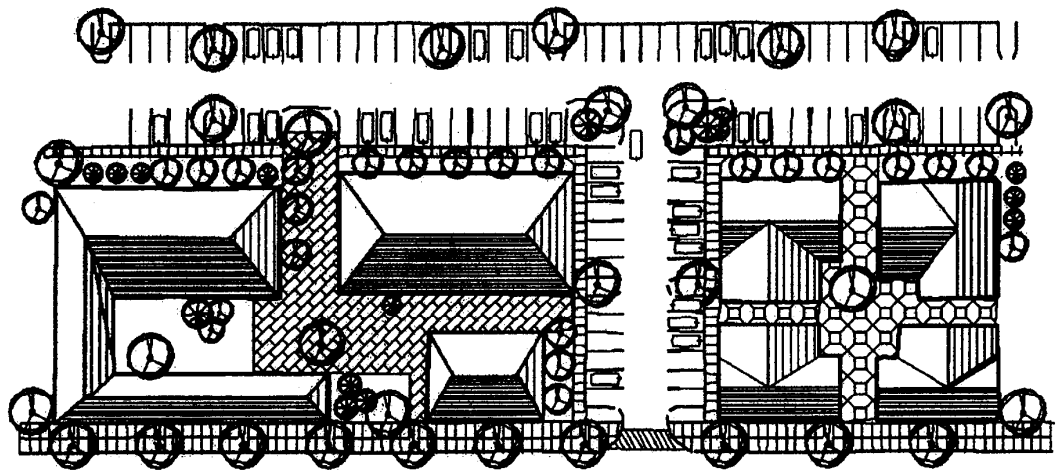
- ii. Pedestrian traffic areas shall be clearly distinguished from motor vehicle and bicycle traffic areas through the use of paving materials, landscaping buffers, or other means.
- iii. Safe and convenient pedestrian and bicycle linkages shall be provided to abutting properties and adjacent public rights-of-way.
- iv. Pedestrian access shall be provided to link buildings with outdoor spaces, parking areas, and sidewalks on adjacent properties wherever practical.
- v. Site planning shall include consideration of future access to bike paths, parks, playgrounds, residential neighborhoods, other businesses, and transportation facilities.
- vi. Pedestrian paths through parking areas shall be clearly defined by curbing, material changes, textures, striping or a continuous 4-season landscape area at a minimum of 3 feet wide on at least one side of the path.
- vii. Where necessary for public safety, site design shall include bollards or vertical curbing to prevent access to pedestrian areas by motorized vehicles.

**e. Driveways & Off-Street Parking**

- i. Driveway openings shall maintain the continuity of sidewalks and pedestrian spaces. Curb cuts shall be located away from the primary commercial streets whenever feasible, preferably on side streets and alleys.
- ii. Parking lots shall not be located in front of buildings or facing the public right-of-way. Parking areas shall be located behind buildings unless deemed infeasible by the PAA.



- iii. Parking lots behind buildings shall be connected and aggregated across property lines wherever feasible to maximize the efficiency of the paved space and minimize the number of curb cuts and driveways.



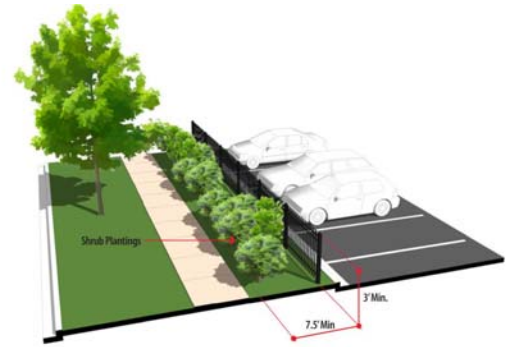
- iv. Below grade parking is encouraged, especially where existing changes in grade make on-grade access feasible while allowing economical structuring of buildings above. Ramping must be incorporated within the building envelope or below grade but shall not be located on the building's primary pedestrian-oriented facade.
- v. Parking areas shall be screened from view on public and private right-of-ways by wrought iron fencing, berms, plantings and/or low stone, brick and masonry walls. Chain link fencing is not acceptable for screening purposes.



**Acceptable**



**Unacceptable**



**Acceptable**

- vi. All parking areas and driveways must be designed to maximize pedestrian and vehicular safety. No driveways are to be located within 50' of an intersection unless required by the Massachusetts Department of Transportation (MassDOT).
- vii. Wherever feasible, off-street parking lots shall be set back a minimum of 10 feet from applicable property lines along public rights-of-way in order to provide a landscaped buffer.
- viii. Parking layouts shall minimize glare from car headlights through the use of visual screening such as plantings and/or low stone, brick and masonry walls.
- ix. All surface parking lots should be designed and constructed with industry standard Low Impact Development (LID) techniques and Best Management Practices (BMPs) to the extent feasible.

#### **f. Public and Semi-Public Common Space**

- i. Design and location. The overall site design shall include common public and/or semi-public common space which shall be accessible and visible from the building. The plans and any necessary supporting documents submitted with an application for Plan Approval shall show the size and location of any proposed public or semi-public common space, including plazas, courtyards, parks, gardens and similar site amenities.





- ii. The PAA may require as a condition of Plan Approval a commitment to adequate long-term maintenance of all public or semi-public common space constructed as part of the Project, whether such space is located on or off the Project site.
- iii. Wherever feasible, all public or semi-public common space shall have direct access to the pedestrian network, including the Clipper City Rail Trail, if applicable.

#### **g. Landscaping**

- i. Unless designated as protected open space or wetland resource areas, all open and disturbed areas within a project shall be landscaped. Bare soil is not permitted. Container planting is acceptable when used to accentuate architectural features or enhance pedestrian areas, including within landscaped parking areas.
- ii. Landscaping shall consist of a combination of grass, flowers, vines, groundcovers, trees and/or shrubs and use a combination of climate tolerant plant material and protective ground cover with a mixture of deciduous and evergreens for visual effect 12 months of the year. During plant selection, particular attention shall be paid to tolerance to potential road salt and other deicing treatments. Unplanted mulch is not considered a ground cover.
- iii. Landscape plant selections shall consist of a blend of native and non-native indigenous plant species that minimize the need for regular mowing, trimming, irrigation, or fertilizer application. Planting of invasive species is prohibited. Plant materials shall be chosen to withstand seasonal weather cycles in New England and for compatibility with existing plantings in the surrounding neighborhood, with consideration for resistance to infestations, resilience to climate exposure, drought tolerance and drainage conditions.

- iv. Ground-covers shall be spaced to cover the applicable planting bed within 3 years of initial planting.
- v. Tree species shall be selected and located so as to mature to a height and canopy to provide shade during the warm months, assure safe patterns of internal pedestrian and vehicular traffic, and not interfere with parking spaces or snow removal. All trees shall have a minimum caliper size of 3-1/2 inches measured at a point four (4) feet above grade at time of planting. Tree selection shall consider canopy spread, branching, root depth, and mature height so as not to interfere with buildings, impede pedestrian travel, sidewalks, and motor vehicle travel.
- vi. Street trees shall be provided at intervals of no more than thirty (30) feet along streets and major pedestrians walkways.
- vii. Parking lot design and layout shall incorporate landscaping to break up large areas of pavement and to minimize their visual impact on the lot and upon adjacent public and private properties. Surface parking lots shall have at least one shade tree per five (5) surface parking spaces, located either in the parking area or within 10 feet of it. At least 5% of the interior of the parking area shall be maintained with landscaping, including trees, in landscape islands or plots of at least 9 feet in width with no more than 10 parking spaces between each island or plot. Trees and shrubs shall be used to the maximum extent feasible.



- viii. Landscaping along the perimeter of parking areas shall include a combination of trees, shrubs, and groundcover vegetation that provides a continuous vegetated buffer that does not project into or otherwise interfere with parked cars, passenger entry to and from parked vehicles, and pedestrian connections within and along parking areas.

- ix. All required landscaping must be installed before issuance of an occupancy permit for buildings within a Project. At the discretion of the PAA the installation of any required landscaping may be deferred during the fall or winter months to the next planting season, but never for more than 6 months. If a project is built in phases, all required landscaping for a given phase must be installed before issuance of an occupancy permit for that phase.
- x. Maintenance of landscaping shall include the removal and replacement of dead or diseased plant materials with the same type, size and quantity of plant materials as originally installed, unless alternative plantings are approved by the Newburyport Office of Planning & Development. Such maintenance shall take place yearly each growing season for all Projects after initial approval.
- xi. Landscaping at retail frontages should not interfere with the connection between the sidewalk and interior uses. Landscaping to define commercial entries or outdoor dining areas shall not interfere with the continuity of the sidewalks. Landscaping to define residential entries should not compete with or overwhelm the continuity of the retail frontages.
- xii. To the extent feasible, any healthy existing trees with a minimum 6" caliper and large canopy shall be preserved.
- xiii. Site design shall include a variety of landscape elements such as trees with irrigation grates, planters, and seasonal plantings. Landscaping improvements shall be combined with site amenities such as street furniture, and trash receptacles.
- xiv. To minimize water consumption, the use of low water vegetative ground cover and ornamental grasses other than turf is strongly encouraged.
- xv. Landscaped islands within parking areas may be in any shape or configuration, provided that they shall be at least one hundred (100) square feet in area and at least four (4) feet in width.
- xvi. The PAA may require the developer to maintain any proposed landscaping in good condition after construction and for the life of the Project.

#### **h. Fencing, Screening and Buffering in Relation to Adjacent Properties**

- i. All dumpsters, utilities, mechanical equipment, and storage areas shall be screened from view from adjacent streets and from structures on neighboring lots in existence at the time of Plan Approval through the provision of architectural screening, landscaping, fencing, or made an integral part of the overall design of the applicable building(s) through the use of decorative walls of masonry or wood. Use of chain link and stockade fencing is prohibited. Screening may be required by the PAA to include plantings and/or landscape structures.



- ii. Trash receptacles shall be located and designed for ease of trash service to the site. Trash receptacles shall be located in the garage of buildings or in freestanding trash houses or enclosures.
- iii. All service, loading and trash collection areas shall be screened by a combination of decorative walls of masonry, wood and landscape plantings. Utility and service enclosures shall be designed to be compatible with the architecture of the adjacent building.
- iv. Fences may be used to provide continuity to a streetscape, privacy for homeowners and their guests from passersby, to help differentiate private space from public space, and to screen parking or service areas and utilities. Types of fencing may include ornamental metal fencing or decorative wood fencing.

#### **i. Exterior Lighting**

- i. Lighting should be provided at a scale and intensity that creates a comfortable, attractive and safe evening environment for pedestrians as well as vehicles.
- ii. In general all lighting shall be oriented downward and otherwise conform to “dark sky” standards. The use of uplighting is permitted in the following situations:
  - a. To light a primary entrance when the light fixture is mounted under an architectural element (e.g. roof, cornice, walkway, entryway or overhanging non-translucent eaves) so that the uplighting is captured;
  - b. To illuminate the United States flag or public monuments;
  - c. To accent building facades or landscaping provided that the light is targeted at the feature to be illuminated and reflected light is the only upward lighting.

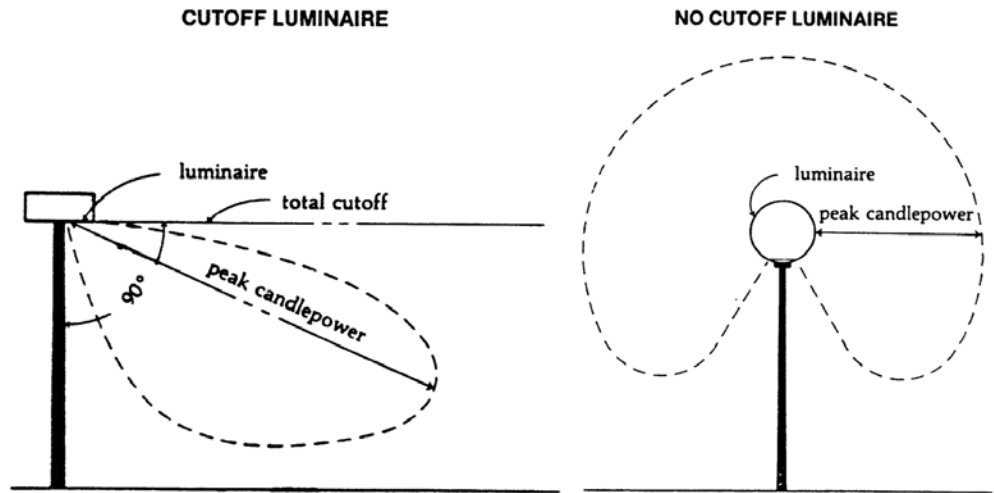




The PAA may waive these requirements only upon a determination that such waiver is in the public interest in light of the unique character or aesthetic benefit of a particular landmark, architectural or landscape feature.

- iii. Exterior lighting shall be shielded to direct lighting to its targeted feature and so that glare is not visible from a public way or abutting property.
- iv. Façade lighting and architectural lighting shall highlight and articulate building uses and entries and reinforce the public nature of the sidewalk and building frontage.
- v. Lighting along street fronts and public ways shall reinforce rather than compete with the continuity of the City's street lighting. If the sidewalk includes street trees, streetlights shall be located between the trees so that the tree canopy does not interfere with illumination coverage.
- vi. Lighting in parking areas and at the side and rear of buildings abutting adjoining properties should be designed with cutoff fixtures to cut off light at the property line.





- vii. Prohibited lighting includes neon or other edge-glowing sources, mercury vapor, low pressure sodium, high pressure sodium, searchlights, and flashing or changing light sources. Motion-sensitive lights may be used when necessary for security purposes. Lighting shall be metal halide and/or LED or similar to provide a natural uniform quality of light. The use of mercury vapor, low pressure sodium, high pressure sodium and high wattage quartz lamps over 100 watts is prohibited.
- viii. Pedestrian areas shall have poles no more than 12 feet high and parking areas shall have poles no more than 22 feet high.
- ix. Parking and pedestrian light fixtures shall be compatible with the building lighting to provide for a consistent appearance of the Project.
- x. Building and signage lighting must be from an indirect light source hidden from the pedestrian, motorist and adjacent view of public and private property.
- xi. Cobra-head lights and unfinished metal poles are not allowed.
- xii. Light levels shall meet or exceed the minimum design guidelines defined by the Illuminating Engineering Society of North America (IESNA) and shall provide illumination necessary for safety and convenience while preventing glare and overspill onto adjoining properties.

#### **j. Utilities & Service Areas**

- i. Where feasible, shared loading areas, dumpsters, and mechanical equipment shall be incorporated into the building and landscape design.
- ii. All new and relocated utility services, wires, conduits, and cables shall be located underground. No new above ground electrical lines or utility cables will be permitted.
- iii. All mechanical equipment, loading and service areas within the Project shall be screened from view and shall incorporate sound control devices or construction methods that mitigate equipment sound and vibration and ensure noise attenuation.

- iv. All electrical and mechanical devices, boxes, and structures shall be located within buildings or screened with landscaping or architectural screens when outside.

**k. Protection of Public Safety**

- i. Site design shall include adequate water supply for distribution and fire protection. Vehicular circulation shall meet the access needs of emergency and public safety vehicles. The adequacy of the foregoing public safety measures will be based on the reasonable requirements of the Newburyport Police Department and Fire Department, in their respective fields.
- ii. All pedestrian paths and entry areas shall be lighted and entry areas to buildings should provide protection from adverse weather through the use of porches, awnings or entryways.

**l. Water & Sewer Infrastructure Standards**

- i. Each Project shall be designed in accordance with the Department of Public Services (DPS) regulations and standards with regard to water and sewer infrastructure.

**m. Drainage and Storm Water Management**

- i. All systems which deliver, treat, infiltrate, and/or discharge stormwater runoff to ground or surface waters shall be sufficiently treated and monitored to achieve all applicable effluent standards of the Newburyport Board of Health, Department of Public Services, Conservation Commission and the Massachusetts Department of Environmental Protection (DEP), as applicable.
- ii. Stormwater management systems shall not increase the volume or rate, or further degrade the quality of, existing discharges/ runoff. Post-development peak runoff shall be maintained at or below pre-development peak runoff rates.
- iii. All development shall incorporate “Best Management Practices” (BMPs) as prescribed by the DEP, in addition to employing Low Impact Development (LID) strategies throughout the site to intercept, treat and infiltrate stormwater using landscaping, natural features and source control methods. BMP/LID means and methods should be carefully integrated within the site design approach with a goal of decentralizing storm water management systems to the greatest extent practical and minimizing environmental impact of new development. The specific goals of the BMP/LID measures should be mitigation of post-development downstream impacts and achieving the highest level of water quality for all storm water runoff.
- iv. The designed approach for storm water management systems should include elements such as bio-retention basins, landscaped swales, vegetated rain-gardens, landscaped swales, infiltration trenches, infiltration chambers, dry-wells, settlement forebays, level spreaders, filter strips, tree boxes permeable pavements and other runoff controlling features that in combination serve to achieve BMP/LID goals. Retention and detention ponds are prohibited.



- v. A Stormwater Operations and Maintenance Plan shall be submitted at the time of application for all Projects. The plan shall include a map of the proposed system, specify the parties responsible for the system, indicate easements required, and provide a schedule for maintenance tasks. The stormwater management plan shall be developed by a professional engineer registered in the Commonwealth of Massachusetts, and shall be reviewed and approved by the PAA, which reserves the right to retain a consultant engineer to review said plan, at the applicant's expense.
- vi. Where feasible, water shed from roofs and paved areas should be collected into a recovery system for use as on-site irrigation and/or gray water flushing or otherwise retained on site and recharged into the ground.



- vii. Pervious paving is recommended, along with landscaping and pervious landscaped areas. Sites shall be graded as necessary to prevent ponding of water.
- viii. Infiltration systems shall be designed to control hazardous material spills, remove contamination, and avoid sedimentation of leaching facilities.

## 9. Signs

### a. Exterior Signs in General

- i. All proposed signs shall clearly identify and distinguish between residential and non-residential uses.
- ii. A residential-only development or the residential component of a mixed use Project where the building does not front on a public street shall be permitted one free-standing sign at each principal entrance to the site. The sign shall identify the name and address of the Project and shall not exceed six (6) feet in height or sixteen (36) square feet in surface area.
- iii. Each mixed-use development project in the District may include a primary storefront sign (or awning that is used to provide signs) and a storefront cantilevered sign, for each commercial tenant. Signs should be standardized by height above grade, type, size, materials, colors, illumination and method of installation, across the building façade and within the surrounding block to the largest extent practical.





- iv. The limitations as to the number of signs permitted do not apply to traffic or directional signs which are necessary for the safety and direction of residents, employees, customers and visitors of any business, industry or residence. Such signs shall not carry the name of any business or product.
- v. Signs on buildings should not obstruct elements such as cornices, arches, lintels, pediments, windows, pilasters, etc.
- vi. Signs in the District should be designed primarily to be visible to pedestrians or slow moving vehicular traffic. Wording should be kept to a minimum and the use of simple graphics or iconic logos is encouraged.



- vii. No signmaker labels or other identification (including UL label), are permitted on the exposed surfaces of signs, except as may be required by the building code. If required, such labels or other identification shall be in an inconspicuous location.
- viii. All sign illumination shall be shielded or directed in such a way as to prevent spillage off the building or onto streets, parking, driveway areas or surrounding properties. Signs shall be illuminated only by an external source of steady, stationary white light, of

reasonable intensity, shielded and directed solely at the sign, and not casting direct or reflected light off the premises. The use of neon or gas filled tubes is prohibited. No sign shall be illuminated internally or from behind a translucent sign face. All light fixtures shall either be decorative (such as goose-neck lights) or camouflaged. Wiring shall be concealed within building molding and lines. White halo lighting may be permitted behind lettering at the discretion of the PAA.



- ix. No sign or other advertising device, or part thereof, shall be more than 20 feet above ground level, unless otherwise approved by the PAA.

**b. Primary Storefront Signs**

- i. A primary storefront sign for each commercial use shall be located within a sign band along the face of the building between 8 to 15 feet above the finish floor level projecting no more than six (6) inches from the adjacent facade. When a tenant has storefronts on multiple sides of a building, the tenant may have a primary storefront sign on each façade. Wall signs in multi-tenanted buildings shall be placed within the same sign band. The placement of wall signs on individual buildings should respect the sign band on adjacent buildings.



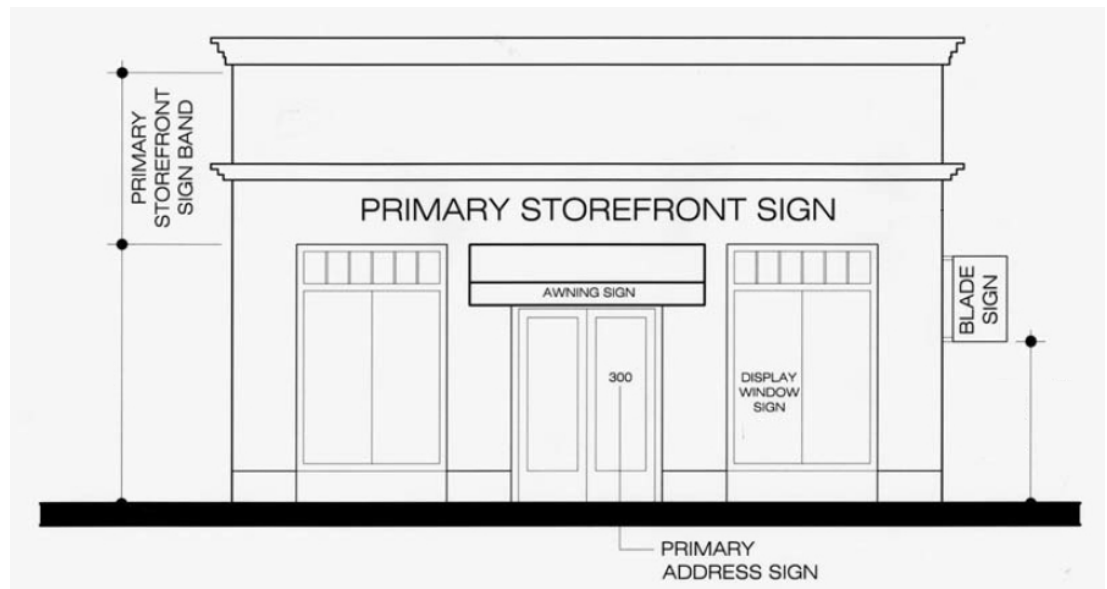
- ii. The total sign area for a primary storefront sign shall not contain more than two square feet of sign area for each linear foot of storefront. Sign area shall be calculated by creating a rectangular box around the main body of the primary sign. The storefront

leaseline width multiplied by two equals the maximum sign area in square feet, however, no sign shall exceed twelve (12) square feet in area.

- iii. Signs above the sills of the second story windows shall be confined to painted or applied letters on the window glass, provided that such signs advertise the organizations therein. Signs are not permitted on continuous, horizontal “curtainwall” type windows in upper stories. These second-story signs shall not exceed fifty percent (50%) of the total glass area of the window.

**c. Storefront Cantilevered Sign**

- i. Each commercial tenant shall be allowed to construct and install a cantilevered (“blade sign”), installed perpendicular to the building façade, not in excess of eight (8) square feet as measured on one face of the sign. Any such storefront cantilevered sign shall not count toward the total allowable area of signs on a single façade.



- ii. One storefront cantilevered sign will be allowed per tenant on each elevation of a building with a customer entrance. The sign shall be attached to the tenant storefront between 8 to 10 feet above the finish floor level. Storefront cantilevered signs shall project no more than four (4) feet from the adjacent building façade.
- iii. Each storefront cantilevered sign may be externally illuminated with two integrated lights (one light on each sign face or panel). The sign may be square, round, elliptical or other shape. Complex shapes and three-dimensional letters or figures are encouraged. Formed plastic, injection molded plastic, and internally illuminated panels are prohibited.
- iv. Signs on the inside or outside surface of ground floor display windows may be permitted provided, however, that such signs shall not cover more than ten percent (10%) of the display window area and shall be lighted only by building illumination which is white and non-flashing.



#### **d. Awnings**

- i. Awnings that are used to provide signs should be standardized by height above grade, type, size, materials, colors, illumination and method of installation, across the building façade and within the surrounding block to the largest extent practical.
- ii. Awnings shall be made of fire resistant, water repellent marine fabric (e.g. canvas) or may be constructed of metal or glass. Vinyl or vinyl-coated awning fabric will not be permitted.
- iii. Continuous, uninterrupted awning spans are not permitted. Fixed awnings shall not span numerous bays, windows or store fronts. The awnings should delineate storefronts on a multi-tenant building.



- iv. Internally illuminated awnings are not permitted, except that down lighting that is intended to illuminate the sidewalk may be provided under the awning. All lighting under a canopy shall be cutoff or recessed, with no lens dropping below the horizontal plane of the canopy. The light source shall not illuminate or cause the awning to “glow”.

#### **e. Temporary Signs**

The following additional signs are permitted in a Project:



- i. One unlighted temporary sign offering premises for sale or lease for each parcel in one ownership, provided that it shall not exceed six (6) square feet in surface area.
- ii. Temporary signs announcing an “open house” event for the prospective lease or sale of a residential unit or property are allowed, provided that such signs are erected no more than three hours prior to the commencement of the event and are removed within one hour of the close of the event.
- iii. One unlighted temporary sign of an architect, engineer or contractor erected during the period such person is performing work on the premises on which such sign is erected, provided that it shall not exceed eight (8) square feet in surface area.

**f. Prohibited Sign Types**

The following sign types are prohibited:

- i. Signs employing luminous plastic or neon (extremely bright) colored letters.
- ii. Advertising flags, feather banners and A-frame signs.
- iii. Box style cabinet signs or “can” signs are prohibited, whether internally illuminated or not.
- iv. Signs or lights that move, change, flash animated or intermittent illumination, have reader boards or make noise are prohibited. Such prohibition shall include commercial balloon devices, high powered search lights and signs expressed or portrayed by emitted light, digital display or liquid crystal display. Where permitted by the PAA, indicators of time or temperature may move.
- v. Signs utilizing paper, cardboard, particle board, plastic, highly reflective metal Styrofoam, stickers or decals hung around, on or behind storefronts, or applied to or located behind the storefront glazing. This restriction shall not apply to carved high-density sign foam, foam board or similar material when the finished surface has a matte (non-glossy) finish.
- vi. Any imitation of official traffic signs or signals, or use of such words as “Stop,” “Look,” “Danger,” “Slow,” “Caution,” or “Warning” is prohibited.
- vii. Red or green lights or any lighting effect utilizing such colors used on any sign if, in the opinion of the Police Department, such light or lighting would create a hazard to the operation of motor vehicles.
- viii. Directories located outside of the buildings, except for unified “wayfinding” signs approved by the PAA.
- ix. Roof, pole or pylon signs, other than those allowed pursuant to Section XXIX-I.8(a)(ii).
- x. Inflatable figures and/or signs, whether movable or stationary.

#### **XXIX-J Appeals.**

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In accordance with M.G.L. Chapter 40R Section 11, an appeal of any decision made by the PAA under this Section may be made by any aggrieved party to any court authorized to hear appeals under section 17 of Chapter 40A. Such appeal may be brought within twenty (20) days after the decision has been filed in the office of the City Clerk. Notice of the appeal, with a copy of the complaint shall be given to the City Clerk so as to be received within such 20 days. Such appeals shall be governed by the applicable provisions of M.G.L. Chapter 40R. Any other request for enforcement or appeal arising under this Section shall be governed by the applicable provisions of M.G.L. Chapter 40A.

#### **XXIX-K Severability.**

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The provisions of this section are severable. If any of its provisions, sections, subsections, paragraphs, sentences, or clauses, or the application thereof to any person, entity, establishment, or circumstances shall be held to be invalid or unconstitutional by any court of competent jurisdiction, then the remainder of this section and the application thereof shall continue to be in full force and effect. The invalidity of any provision of this Section shall not affect the validity of the remainder of this Section or the Newburyport Zoning Ordinance.