
The Point Corridor Overlay District

Prepared for

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COMMENTS: The Regulations state that the Smart Growth Zoning must be all-inclusive. This means that the development of a Project within the District shall be governed solely by the Smart Growth Zoning, without reference to any standards or procedures contained elsewhere in the Zoning Bylaw.

I. Purpose

The purpose of this **Section X** is to establish The Point Corridor Overlay District (PCOD) to encourage development in accordance with the purposes of G.L. Chapter 40R within Salem's Point neighborhood. The PCOD will facilitate mixed-use, diverse, and affordable housing development to meet local need and demand in Salem, and expand commercial and housing opportunity in the Point, one of Salem's most dense and transit-accessible neighborhoods. Other objectives of this Section are to:

1. Implement the goals of the Salem Point Neighborhood Commercial Corridors Revitalization Plan (2014), which recommends an Overlay District be adopted in the Point.
2. Enable an increase in housing production that will provide for a full range of housing choices for households of all incomes, ages, and sizes in order to preserve Salem's community character.
3. Enable a mix of uses along Lafayette Street, Peabody Street, and Congress Street corridors in the Point in order to advance walkability, safety, convenience, and to meet local need and demand for appropriate amenities.
4. Ensure high quality site planning, architecture, and landscape design that enhances the distinct visual character and identity of the Point and Salem.
5. Ensure predictable, fair, and cost-effective development review and permitting.
6. Generate positive tax revenue.
7. Enable the City to receive Zoning Incentive Payments and/or Density Bonus Payments in accordance with G.L. Chapter 40R, 760 CMR 59.06, and G.L. Chapter 40S arising from housing development in the PCOD.

II. Definitions

For the purpose of this **Section X**, the following definitions shall apply. All capitalized terms shall be defined in accordance with the definitions established under the Enabling Laws or Section 2.0, or as set forth in the Planning Approval Authority (PAA) Regulations. To the extent that there is any conflict between the definitions set forth in Section 2.0 or the PAA Regulations and the Enabling Laws, the terms of the Enabling Laws shall govern.

Administering Agency – see *monitoring agent*.

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

Affordable Housing - housing that is affordable to and occupied by Eligible Households.

Affordable Housing Restriction - a deed restriction of Affordable Housing meeting statutory requirements in G.L. Chapter 184, Section 31, and the requirements of **Section 6.5** of this Ordinance.

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.

Arts and Crafts Studio and Workshop - an establishment, for the preparation, display, and sale of individually crafted artwork, jewelry, furniture, sculpture, pottery, leathercraft, hand-woven articles, and related items.

As-of-right - a use allowed under **Section 5.0** without recourse to a special permit, variance, zoning amendment, or other form of zoning relief. A Project that requires Plan Approval by the **PAA pursuant to Sections 9.0 through 13.0** shall be considered an as-of-right Project.

Bank - a financial institution for deposit banking, and that performs closely related functions such as making loans, investments, and fiduciary activities.

Business or professional office - A building or part thereof, for the transaction of business or the provision of services exclusive of the receipt, sale, storage, or processing of merchandise.

Community facility - a non-commercial use established primarily for the benefit and service of the population of the community in which it is located. Community facility shall include but not be limited to community care facility, community center, social services, and learning/training facility.

Daycare - any facility operated for the purpose of providing care, protection, and guidance to 10 or more children during only part of a 24-hour day in a place other than the child's own dwelling unit. Daycare shall include but not be limited to a facility operated on a regular basis whether known as a child nursery, nursery school, kindergarten, child play school, progressive school, child development center, or preschool, or known under any other name, which receives children under 7 years of age, but excludes public and private educational facilities.

Department or DHCD - the Massachusetts Department of Housing and Community Development, or any successor agency.

Design Standards - provisions of **Section 13** made applicable to Projects within the PCOD that are subject to the Plan Approval process.

Dwelling, multifamily - A building designed for or occupied by three (3) or more families, with separate housekeeping and cooking facilities for each.

Dwelling, two-family - A building designed for or occupied by two (2) families only, with separate housekeeping and cooking facilities for each. A so-called duplex dwelling, even though having two (2) separate entrances and street numbers, shall be construed as being a single building.

Dwelling unit - A building or portion thereof providing complete housekeeping and cooking facilities for one (1) family.

Educational use - use of land or a building(s) for non- or for-profit educational purposes.

Eligible Household - an individual or household whose annual income is less than 80 percent of the area-wide median income as determined by the United States Department of Housing and Urban Development (HUD), adjusted for household size, with income computed using HUD's rules for attribution of income to assets.

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

Floor area, gross - The total square feet of floor space within the outside dimensions of a building including each floor level, without deduction for hallways, stairs, closets, thickness of walls, columns, or other features.

Floor area ratio (FAR) - A mathematical expression determined by dividing total gross floor area of a building by the area of the lot on which it is located. For example, a one acre lot with a FAR of .75 could contain thirty-two thousand six hundred seventy (32,670) square feet of gross floor area ($43,560 \times .75 = 32,670$).

Large-scale retail - a singular retail or wholesale user occupying no less than 50,000 square feet of gross floor area, typically requiring high parking to building area ratios,

and serving a regional sales market. Regional retail/wholesale sales shall include but are not limited to membership warehouse clubs, discount stores, department stores.

Medical Clinic - Any entity, however organized, whether conducted for profit or not for profit, which is advertised, announced, established, or maintained for the purpose of providing ambulatory, out-patient medical, surgical, physical, mental health or addictive relief services for human beings. In addition, clinic shall include any entity, however organized, whether conducted for profit or not for profit, which is advertised, announced, established, or maintained under a name which includes the word clinic, "dispensary", or "institute", and which suggests that the organization is formed for the dispensing of medication or providing ambulatory, out-patient medical, surgical, physical, mental health or addictive relief services. Clinic shall not include dental clinics operated by local school and health departments for the sole purpose of providing education and dental hygiene services including routine examinations, cleaning and topical fluoride applications. Clinic shall not include ad hoc health promotions, screenings or wellness programs.

Medical or dental office - An office building or part thereof not a "Medical Clinic", "dispensary", or "institute" but rather one or more practitioners engaged in a solo or group practice, whether conducted for profit or not for profit, and however organized, wholly owned and controlled by one or more of the practitioners.

Mixed-Use Development Project - a Project containing a mix of residential uses and non-residential uses, as allowed in **Section 5.2**, and subject to all applicable provisions of this **Section X**.

Monitoring Agent - or other qualified housing entity designated by **the Planning Board pursuant to Section 6.2**, to review and implement the Affordability requirements affecting Projects under **Section 6.0**. Also referred to as the Administering Agency.

Municipal facility - a building or structure owned, operated, and/or occupied by a governmental agency to provide a governmental service to the public.

PAA Regulations - the rules and regulations of the PAA adopted pursuant to **Section 9.3**.

Plan Approval - standards and procedures which Projects in the PCOD must meet pursuant to **Sections 9.0 through 13.0** and the Enabling Laws.

COMMENTS: A Municipality has the option, in Section 9.1, either to subject all Projects within the SGOD to the Plan Approval process, or to limit the review process to certain categories of Projects.

Plan Approval Authority (PAA) - the local approval authority authorized under **Section 9.2** to conduct the Plan Approval process for purposes of reviewing Project applications and issuing Plan Approval decisions within the PCOD. For the PCOD, the PAA shall be the Planning Board.

Personal service establishment - a facility providing personal services, including but not limited to hair salon, barber shop, tanning beds, dry cleaning, print shop, and photography studio.

PCOD - the Smart Growth Overlay District established in accordance with this **Section X**.

Professional office - a business that provides services to the public exclusive of the receipt, sale, storage, or processing of merchandise by someone trained and often licensed, e.g., public accountant, engineer, chiropractor, dentist, physician, architect, veterinarian, lawyer.

Project - a Residential, Mixed-Use Development, or Commercial Project undertaken within the PCOD in accordance with the requirements of this **Section X**.

Retail - a business having as its primary function the sale of goods, wares, or merchandise directly to the ultimate consumer or persons without a resale license.

Residential Project - a Project that consists solely of residential, parking, and accessory uses, as further defined in **Section 5.1**.

Restaurant - A building, or portion thereof, containing tables and/or booths for at least two-thirds (2/3) of its legal capacity, which is designed, intended and used for the indoor sales and consumption of food prepared on the premises, except that food may be consumed outdoors in landscaped terraces, designed for dining purposes, which are adjuncts to the main indoor restaurant facility. The term "restaurant" shall not include "fast food establishments".

Restaurant, fast-food - An establishment whose principal business is the sale of pre-prepared or rapidly prepared food directly to the customer in a ready to consume state for consumption either within the restaurant building or off premises and usually requires ordering food at a counter.

Small-scale grocer - stores where most of the floor area is devoted to the sale of food products for home preparation and consumption, which typically also offer other homecare and personal care products, and which are larger and carry a broader range of merchandise than convenience stores.

Supermarket - an indoor retail operation selling groceries, produce, meat and fish, baked goods, and other convenience and household goods stores with more than **4,000** square feet of gross floor area.

Zoning Ordinance - the Zoning Ordinance of Salem.

COMMENTS: Because of the requirement in the Regulations that the local Smart Growth Zoning must be all-inclusive, it must contain a definitions Section with all defined terms, rather than referring the reader to other sections of the local zoning code. In particular, to satisfy the requirements of Chapter 40R and the 40R Regulations regarding Affordable Housing, the following definitions are required by the Department:

- *Administering Agency*
- *Affordable Homeownership Unit*
- *Affordable Housing*
- *Affordable Housing Restriction*
- *Affordable Rental Unit*
- *Eligible Household*

The sample bylaw includes certain definitions required by the text. Other definitions are likely to be required (for example, terms used in relation to the use and dimensional provisions of Sections 5.0 and 7.0) The drafter may choose to locate certain text elements, including Design Standard (see Section 13.0) and certain definitions, in the PAA Regulations, rather than in the Smart Growth Zoning, Note, however, that under the 40R Regulations any change in the PAA Regulations must be reviewed and approved by the Department.

III. Overlay District

3.1 Establishment

The PCOD is an overlay district with a land area of approximately **XXXX** acres. It is roughly bordered by Lafayette Street to the west, the Salem Harbor Walk to the north, and Congress Street to the east. The PCOD is shown on the Zoning Map as set forth on the map entitled “Salem 40R Point Corridor Overlay District, dated **May 2016**, prepared by the Metropolitan Area Planning Council. This map is hereby made a part of the Zoning Ordinance and is on file in the Office of the City Clerk.

COMMENTS: The Smart Growth Zoning must specify that the District is an overlay district. The Department will further require that the Smart Growth Zoning sufficiently identify the smart growth district overlay map. The Smart Growth Zoning must state that the map is part of the local zoning bylaw and is on file in the office of the municipal clerk.

Salem Point Neighborhood
Proposed 40R District

 Proposed 40R District



Data Sources: MAPC, MassGIS
Date: June 2016

0 125 250 500 Feet



IV. Applicability

4.1 Applicability

An applicant may seek development of a Project located within the PCOD in accordance with the provisions of the Enabling Laws and this **Section X**, including a request for Plan Approval by the PAA, if necessary. In such case, notwithstanding anything to the contrary in the Zoning Ordinance, such application shall not be subject to any other provisions of the Zoning Ordinance, including limitations upon the issuance of building permits for residential uses related to a rate of development or phased growth limitation or to a local moratorium on the issuance of such permits, or to other building permit or dwelling unit limitations.

COMMENTS: The 40R Regulations state that Projects within a District shall not be subject to limitation of the issuance of building permits for residential uses or a local moratorium on the issuance of such permits. Therefore, the Smart Growth Zoning must specify that Projects in the SGOD are not subject to any such provisions within the Zoning Bylaw. It is also recommended that the Smart Growth Zoning state that a local rate of development provision (if any) does not apply to Projects in the SGOD.

4.2 Underlying Zoning

The PCOD is an overlay district superimposed on all underlying zoning districts. The regulations for use, dimension, and all other provisions of the Zoning Ordinance governing the underlying zoning district(s) shall remain in full force, except for those projects undergoing development pursuant to this **Section X**. Within the boundaries of the PCOD, a developer may elect either to develop a project in accordance with the requirements of the PCOD, or to develop a project in accordance with requirements of the regulations for use, dimension, and all other provisions of the Zoning Ordinance governing the underlying zoning district(s).

COMMENTS: Chapter 40R and the 40R Regulations state that within the boundaries of a District, a developer may elect either to develop a Project in accordance with the requirements of the Smart Growth Zoning, or to develop a project in accordance with the requirements of the Underlying Zoning. Therefore, for the sake of clarity the Smart Growth Zoning must acknowledge that the underlying zoning remains in effect, except for Projects specifically being developed under the Smart Growth Zoning.

4.3 Administration, Enforcement, & Appeals

The provisions of this **Section X** shall be administered by the Building Commissioner, except as otherwise provided herein. Any legal appeal arising out of a Plan Approval decision by the PAA under **Sections 9 through 13** shall be governed by the applicable provisions of G.L. Chapter 40R. Any other request for enforcement or appeal arising under this **Section X** shall be governed by the applicable provisions of G.L. Chapter 40A.

V. Permitted & Prohibited Uses

In compliance with the dimensional and density regulations listed under Section 7.1, the following uses are permitted “as-of-right” with Plan Approval from the PAA.

✓ = permitted X = prohibited

The Point Corridor Overlay District

RESIDENTIAL USES			
Dwelling, two-family	✓	Dwelling, multifamily	✓
MIXED-USE DEVELOPMENT USES			
Dwelling, two-family ¹	✓	Professional offices	✓
Dwelling, multifamily	✓	Personal service establishment	✓
Community facility	✓	Bank	✓
Educational use	✓	Retail	✓
Daycare	✓	Small-scale grocer	✓
Medical clinic/office	✓	Supermarket	✓
Municipal facility	✓	Restaurant	✓
		Arts and crafts studios and workshops	✓
OTHER USES			
Retail	✓	Community facility	✓
Small-scale grocer	✓	Educational use	✓
Supermarket	✓	Daycare	✓
Restaurant	✓	Medical clinic/office	✓
Arts and crafts studios and workshops	✓	Municipal facility	✓
Professional office	✓	Bank	✓
Personal service establishment	✓	Municipal facility	✓
PROHIBITED USES			
Dwelling, single-family	X	Auto-related uses	X
Drive-through establishment	X	Large-scale retail	X

5.1 Residential Projects

A Residential Project within the PCOD may include:

- a) Dwelling, two-family
- b) Dwelling, multifamily
- c) Parking accessory to any of the above permitted uses, including surface, garage-under, and structure parking (e.g., parking garages)
- d) Accessory uses customarily incidental to any of the above permitted uses

¹ Only allowed as provided in Section 5.2(b)

COMMENTS: Chapter 40R and the 40R Regulations state that Residential Projects must be permitted as of right, although they may be subject to Plan Approval by the PAA (see definition of “as-of-right” in Section 2 above). If there are sub-districts within the District, the Smart Growth Zoning must specify which types of residential uses are allowed within each sub-district.

Note that Chapter 40R and the 40R Regulations state that within a Substantially Developed Sub-district, the Smart Growth Zoning must permit the as-of-right construction of additional housing units in existing residential buildings or additions thereto or replacements thereof. Drafters should consult with DHCD on this and other issues if the Smart Growth Zoning will include provisions for a Substantially Developed Sub-district. See also Section 7.2.

5.2 Mixed-Use Development Projects

A Mixed-Use Development Project within the PCOD may include one of the following combinations:

- a) Multifamily Residential Uses, provided that the minimum allowable as-of-right density requirements for residential use specified in **Section 7.1** shall apply to the residential portion of any Mixed-Use Development Project, with any of the following non-residential uses:
 - Retail
 - Restaurant, with service of alcoholic beverages, no service of alcoholic beverages, and fast-food
 - Supermarket or small-scale grocer
 - Personal service establishment
 - Bank
 - Community facility
 - Business or professional office
 - Arts and crafts studios and workshops
- b) Two-family Residential Uses, provided that the minimum allowable as-of-right density requirements for residential use specified in **Section 7.1** shall apply to the residential portion of any Mixed-Use Development Project, with any of the following non-residential uses:
 - Retail
 - Small-scale grocer
 - Personal service establishment
 - Business or professional office
 - Arts and crafts studios and workshops

In either case, Mixed-Use Development Projects may include:

- c) parking accessory to any of the above permitted uses, including surface, garage-under, and structured parking (e.g., parking garages)
- d) Accessory uses customarily incidental to any of the above permitted uses

The total gross floor area devoted to non-residential uses within a Mixed-Use Development Project shall not exceed 25% of the total gross floor area of the Project. Residential uses shall not occupy the ground floor level of a Mixed-Use Development Project.

5.3 Prohibited Uses

Prohibited uses within the PCOD include the following, or any other uses not specifically allowed in the PCOD in Sections 5.1 and 5.2:

- a) Dwelling, single-family
- b) Large-scale retail
- c) Motor vehicle-related uses
- d) Drive-through facilities; restaurant, fast-food, and other

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VI. Housing Affordability

6.1 Number of Affordable Housing Units

For all Projects containing at least five (5) residential units, not less than twenty percent (20%) 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 units of 0.5 or greater shall be deemed to constitute a whole unit. A Project shall not be segmented to evade the Affordability threshold set forth above.

COMMENTS: Chapter 40R and the 40R Regulations require that under the Smart Growth Zoning, not less than 20 percent of all units constructed within Projects containing at least 13 units shall be Affordable. The 20% affordability standard and the 13-unit threshold apply to all units in a Project that is developed under the Smart Growth Zoning and is subject to this Section 6. Therefore, the Smart Growth Zoning must contain the above language.

The 40R Regulations state that the Smart Growth zoning must require that Projects are not segmented to evade the size threshold for the Affordability requirements. As discussed below, the Municipality also has the option to apply the Affordability requirements to smaller Projects, or to all Projects within the District. In the latter case, the bracketed sentence on segmentation would not be required.

The Smart Growth Zoning and/or the Community Housing Plan shall contain mechanisms to ensure that the total number of Affordable units constructed in the District equals not less than twenty percent (20%) of the total number of all units constructed within Projects in the District. Such mechanisms might include some or all of the following:

- Applying the 20% affordability standard to some or all Projects with fewer than 13 units;*
- Increasing the affordability standard beyond 20% for certain categories of Projects; and*
- Identifying specific Projects within the District that are projected to have significantly greater than 20% of their units Affordable (for example, Projects undertaken by a local housing authority or community development corporation).*

The Municipality shall be required to prove to the Department in its submission that its use of such mechanisms will not “unduly restrict” opportunities for development within the proposed District under the Smart Growth Zoning; that means that the mechanisms may not add unreasonable costs or unreasonably impair the economic feasibility of proposed Projects. Note that for the purposes of satisfying the twenty percent (20%) overall Affordability requirement, any project located within the geographic boundaries of the District, and which receives a comprehensive permit under M.G.L. c.40B after the date upon which the application was submitted to the Department, shall be treated as if it were a Project developed under the Smart Growth Zoning.

6.2 Monitoring Agent

The Monitoring Agent shall be or other qualified housing entity shall be designated by the PAA. In a case where the Monitoring Agent cannot adequately carry out its administrative duties, upon certification of this fact by the designating official or by DHCD such duties shall devolve to and thereafter be administered by a qualified housing entity designated by the designating official. In any event, such Monitoring Agent shall ensure the following,

both prior to issuance of a Building Permit for a Project within the PCOD, and on a continuing basis thereafter, as the case may be:

1. Prices of Affordable Homeownership Units are properly computed; rental amounts of Affordable Rental Units are properly computed;
2. Income eligibility of households applying for Affordable Housing is properly and reliably determined;
3. The housing marketing and resident selection plan conform to all requirements and are properly administered;
4. Sales and rentals are made to Eligible Households chosen in accordance with the housing marketing and resident selection plan with appropriate unit size for each household being properly determined and proper preference being given; and
5. Affordable Housing Restrictions meeting the requirements of this section are recorded with the proper registry of deeds.

COMMENTS: Chapter 40R and the 40R Regulations state that the Smart Growth Zoning shall contain provisions to ensure that there shall be effective monitoring and enforcement of the affordable housing restriction during the term of Affordability. Therefore, the Smart Growth Zoning must contain this provision, or language of substantially equal effect.

6.3 Submission Requirements

As part of any application for Plan Approval for a Project within the PCOD submitted under Sections 9.0 through 13.0, the Applicant must submit the following documents to the PAA and the Monitoring Agent:

1. A narrative document and marketing plan that establishes that the proposed development of housing is appropriate for diverse populations, including households with children, other households, individuals, households including individuals with disabilities, and the elderly;
2. Evidence that the Project complies with the cost and eligibility requirements of Section 6.4;
3. Project plans that demonstrate compliance with the requirements of Section 6.5; and
4. A form of Affordable Housing Restriction that satisfies the requirements of Section 6.6.

These documents in combination, to be submitted with an application for Plan Approval (or, for Projects not requiring Plan Approval, prior to submission of any application for a Building Permit), shall include details about construction related to the provision, within the development, of units that are accessible to the disabled.

COMMENTS: The Smart Growth Zoning must contain this provision, or language of substantially equal effect. Chapter 40R and the 40R Regulations require assurances in the Smart Growth Zoning that under the affordable housing restriction on an Affordable unit, it shall be occupied by an eligible household paying an affordable rent or affordable purchase price during the term of the restriction. The Smart Growth Zoning shall contain provisions specifying the method by which such affordable rents or affordable purchase prices shall be computed.

6.4 Cost & Eligibility Requirements

Affordable Housing shall comply with the following requirements:

1. Affordable Housing required to be offered for rent or sale shall be rented or sold to and occupied only by Eligible Households.
2. For an Affordable Rental Unit, the monthly rent payment, including utilities and parking, shall not exceed 30 percent (30%) of the maximum monthly income permissible for an Eligible Household, assuming a family size equal to the number of bedrooms in the unit plus one, unless other affordable program rent limits approved by the DHCD shall apply.
3. For an Affordable Homeownership Unit, the monthly housing payment—including mortgage principal and interest, private mortgage insurance, property taxes, condominium and/or homeowner's association fees, insurance, and parking—shall not exceed 30 percent (30%) of the maximum monthly income permissible for an Eligible Household, assuming a family size equal to the number of bedrooms in the unit plus one.

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

6.5 Design & Construction

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

COMMENTS: The Smart Growth Zoning must contain this provision, or language of substantially equal effect.

6.6 Affordable Housing Restriction

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

1. Specification of the term of the affordable housing restriction, which shall be no less than thirty (30) years;
2. The name and address of the Monitoring Agent with a designation of its power to monitor and enforce the affordable housing restriction;
3. A description of the Affordable Homeownership Unit, if any, by address and number of bedrooms; and a description of the overall quantity and number of bedrooms and number of bedroom types of Affordable Rental Units in a Project or portion of a Project that are

rental. Such restriction shall apply individually to the specifically identified Affordable Homeownership Unit and shall apply to a percentage of rental units of a rental Project or the rental portion of a Project without specific unit identification;

4. Reference to a housing marketing and resident selection plan, to which the Affordable Housing is subject, and which includes an affirmative fair housing marketing program, including public notice and a fair resident selection process. If approved by DHCD, the housing marketing and selection plan may provide for preferences in resident; the plan shall designate the household size appropriate for a unit with respect to bedroom size and provide that the preference for such Unit shall be given to a household of the appropriate size;
5. A requirement that buyers or tenants will be selected at the initial sale or initial rental and upon all subsequent sales and rentals from a list of Eligible Households compiled in accordance with the housing marketing and selection plan;
6. Reference to the formula pursuant to which rent of a rental unit or the maximum resale price of a homeownership will be set;
7. A requirement that only an Eligible Household may reside in Affordable Housing and that notice of any lease of any Affordable Rental Unit shall be given to the Monitoring Agent;
8. Provision for effective monitoring and enforcement of the terms and provisions of the affordable housing restriction by the Monitoring Agent;
9. Provision that the restriction on an Affordable Homeownership Unit shall run in favor of the Monitoring Agent and/or the municipality, in a form approved by municipal counsel, and shall limit initial sale and re-sale to and occupancy by an Eligible Household;
10. 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/or the municipality, in a form approved by municipal counsel, and shall limit rental and occupancy to an Eligible Household;
11. 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 Affordability provisions of this Ordinance and containing such other information as may be reasonably requested in order to ensure affordability; and
12. A requirement that residents in Affordable Housing provide such information as the Monitoring Agent may reasonably request in order to ensure affordability.

COMMENTS: Chapter 40R and the 40R Regulations state that the Smart Growth Zoning shall contain provisions to ensure that there shall be effective monitoring and enforcement of the affordable housing restriction during the term of Affordability. Therefore, the Smart Growth Zoning must contain this provision, or language of substantially equal effect.

6.7 Costs of Housing Marketing & Selection Plan

The housing marketing and selection plan may make provision for payment by the Project applicant of reasonable costs to the Administering Agency to develop, advertise, and maintain

the list of Eligible Households and to monitor and enforce compliance with affordability requirements.

COMMENTS: To ensure that the costs of the marketing and enforcement measures are not unduly burdensome, the Smart Growth Zoning must contain this provision, or language of substantially equal effect.

6.8 Age Restrictions

Nothing in this Section shall permit the imposition of restrictions on age upon Projects throughout the entire PCOD. However, the PAA may, in its review of a submission under Section 6.3, allow a specific Project within the PCOD 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.

COMMENTS: Chapter 40R and the 40R Regulations state that the Smart Growth Zoning for the proposed District shall not impose restrictions on age or any other forms of occupancy restrictions upon the District as a whole. This provision does not preclude the development of specific Projects within the District that may be exclusively for the elderly, persons with disabilities, or for assisted living, provided that any such Project shall be in compliance with all applicable fair housing laws. Not less than twenty-five percent (25%) of the housing units in such a Project shall be Affordable. Therefore, the Smart Growth Zoning must contain this provision, or language of substantially equal effect.

6.9 Phasing

The PAA may allow a Project to be phased at the request of the Applicant or to mitigate any extraordinary adverse impacts on nearby properties. For any Project that is approved and developed in phases in accordance with [Section 9.4](#), the proportion of Affordable Housing Units (and the proportion of Existing Zoned Units to Bonus Units as defined in 760 CMR 59.04 1(h)) shall be consistent across all phases.

COMMENTS: To address the proportionality requirements of the 40R Regulations, the Smart Growth Zoning must contain this provision, or language of substantially equal effect.

6.10 Fair Housing Requirement

All Projects within the PCOD shall comply with all applicable federal, state and local fair housing laws and regulations.

COMMENTS: The 40R Regulations state that the Affordability requirements may not be waived as part of the Plan Approval process for a Project. Therefore, the Smart Growth Zoning must contain this provision.

6.11 No Waiver

Notwithstanding anything to the contrary herein, the Affordability provisions in this Section 6.0 shall not be waived.

VII. Dimensional & Density Requirements

7.1 Table of Requirements

Notwithstanding anything to the contrary in this Zoning Ordinance, the dimensional requirements applicable to the PCOD are as follows:

Table of Dimensional Requirements	
Characteristic	Recommendation
Minimum lot area (square feet)	2,000
Minimum lot area per dwelling unit (square feet)	None for Nonresidential Uses- existing building, Nonresidential Uses- new construction and Residential Uses or Mixed Use-Existing Building.
	Residential Use or Mixed Use- New Construction requires 500 square feet per dwelling unit
Minimum lot width (feet)	30
Maximum lot coverage by all buildings (percent)	100
Minimum depth of front yard (feet)	0
Minimum width of side yard (feet)	5
Maximum height of buildings (feet)	70
Maximum height of buildings (stories)	6 (with minimum setback of five (5) feet required at the top of the 4 th floor)
Minimum distance between buildings on lot (feet)	None
Floor area ratio	3.0

VIII. Off-Street Parking

8.1 Parking Space Location and Design

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

8.2 Off-Street Parking Requirements

Unless otherwise approved by the PAA, off-street parking spaces shall be provided by use, either in surface parking, within garages or other structures to meet the following minimum standards:

1. **Dwelling, two-family and multifamily:** one (1) space per unit for dwelling units with one (1) bedroom; one and one-quarter (1 ¼) spaces per unit for dwelling units with two (2) bedrooms; and one and one-half (1 ½) spaces per unit for dwelling units with three (3) or more bedrooms.
2. **Personal service, professional office, and retail uses (small-scale grocer, supermarket, arts and crafts studio and workshops):** three (3) spaces per 1,000 square feet
3. **Restaurant uses:** one (1) space for each four (4) seats, plus one (1) space for each two (2) employees
4. **Drive-in restaurants and other eating and drinking places:** one (1) space for each two (2) employees, plus fifteen (15) spaces
5. **Professional office, medical office/clinic, educational, and community and municipal facility uses:** four (4) spaces per 1,000 square feet
6. **Bank:** three (3) spaces per 1,000 square feet
7. **Day care:** one (1) space for each employee on the largest shift plus one (1) space for each fifteen (15) clients of the licensed capacity

COMMENTS: To support the smart growth goals of Chapter 40R and encourage alternatives to automobile travel, the Department encourages communities to consider provisions allowing the reduction of minimum parking requirements beyond what is commonly required. Particularly for locations near transit stations, defining maximum as well as minimum parking requirements can further support the smart growth goals of Chapter 40R. For further discussion of this issue, see the Design Standards guidance document.

8.3 Shared Parking Requirements

At the discretion of the PAA, shared use may be made of required parking spaces by intermittent use establishments such as churches, assembly halls, or theaters whose peak parking demand is only at night or on Sundays and by other uses whose peak demand is only during the day. Required spaces shall be within eight hundred (800) feet in actual travel distance of the main entrance to the principal buildings served by the shared parking. In order for such shared parking to be eligible to satisfy required off-street parking standards in whole or in part, prior to Plan

Approval a written agreement acceptable to the PAA defining the joint use of the common parking facility shall be executed by all parties concerned and approved by the PAA. Such agreement shall specify the location of all spaces to be jointly used, the number of such spaces, the hours during the day that such parking shall be available, and the duration or limit, if any on such parking. Such agreement shall be recorded at the Southern Essex Registry of Deeds.

The PAA may prescribe safeguards and conditions as it shall warrant appropriate.

COMMENTS: The Department encourages communities to consider provisions allowing the reduction of minimum parking requirements if parking is shared by different uses, within Mixed-use Development Projects or otherwise.

8.4 Off-site Parking

An applicant may use off-site parking to satisfy their parking requirements, where alternative parking is within eight hundred (800) feet of the subject property. Off-site parking may be provided in public lots located within one thousand (1,000) feet of the building. Applicant shall document efforts to promote use of off-site parking by customers, residents or employees. In the event that the off-site parking is no longer available, the applicant shall present a new parking plan to the PAA for approval.

8.5 Waivers

Notwithstanding anything to the contrary herein, any minimum required amount of parking may be waived that it is impractical to meet the parking standards and that such waivers are appropriate by reason of the proposed use and will not result in or worsen parking or traffic problems in or in proximity to the Project, and upon demonstration to the reasonable satisfaction of the PAA that a lesser amount of parking will not cause excessive congestion, endanger public safety, or that lesser amount of parking will provide positive environmental or other benefits, taking into consideration:

1. The availability of surplus off-street parking in the vicinity of the use being served;
2. The proximity to bus or rail service (within 800 feet);
3. The availability of public or commercial parking facilities in the vicinity of the use being served in accordance with **Section 8.4;**
4. Age or other occupancy restrictions which are likely to result in a lower level of auto usage;
5. Evidence that a proposed use will result in less parking demand than the required minimum parking standards;
6. Evidence that the number of cars per household within the PCOD can be supported by a reduced number of parking spaces;
7. Impact of the parking requirement on the physical environment of the affected lot or the adjacent lots including reduction in green space, destruction of significant existing trees

and other vegetation, destruction of existing dwelling units, or loss of pedestrian amenities along public ways; and

8. Such other factors as may be considered by the PAA.

Waivers cannot be granted using criteria 3 and 4 above in combination.

In mixed-use developments, applicants may request a waiver of the parking requirements based on an analysis of peak demand for noncompeting uses. In such cases the parking requirement for the largest of the uses (in terms of parking spaces required) shall be sufficient.

This Section does not apply to requests for shared parking pursuant to **Section 8.3** above.

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IX. Plan Approval of Projects

The 40R Regulations state that the Plan Approval provisions of the Smart Growth Zoning and/or any separate Design Standards must be clearly written, fairly and consistently applied, and allow for flexibility and creativity, consistent with the goals of the Act. The contents of the following Sections 9.0 through 13.0 are intended to satisfy these regulatory requirements. For any community that subjects Projects to Plan Approval, the Smart Growth Zoning must contain these provisions, or language of substantially equivalent effect.

9.1 Plan Approval

An Application for Plan Approval shall be reviewed by the Plan Approval Authority (PAA) for consistency with the purpose and intent of this ordinance. Such Plan Approval process shall be construed as an as-of-right review and approval process as required by and in accordance with M.G.L. Chapter 40R and its implementing regulations found at 760 CMR 59.00. The following categories of Projects shall be subject to the Plan Approval process:

1. any Residential Project containing at least six (6) residential units;
2. any Mixed-use Development Project;
3. any Project consisting solely of non-residential uses; and
4. any Project seeking a waiver.

9.2 Plan Approval Authority

The Salem Planning Board, consistent with M.G.L. Chapter 40R and 760 CMR 59.00, shall be the Plan Approval Authority (the "PAA"), and it is authorized to conduct the Plan Approval process for purposes of reviewing Project applications and issuing Plan Approval decisions within the PCOD.

COMMENTS: The 40R Regulations state that if the Smart Growth Zoning provides for Plan Approval of Projects within the District, it shall specify the Approving Authority. Therefore, the Department will require the Smart Growth Zoning to contain this provision if Projects are subject to Plan Approval.

9.3 PAA Regulations

The Planning Board may adopt administrative rules and regulations relative to Plan Approval. Such rules and regulations must be approved by the Department of Housing and Community Development.

9.4 Project Phasing

An Applicant may propose, in a Plan Approval submission, that a Project be developed in phases, provided that the submission shows the full buildout of the Project and all associated impacts as of the completion of the final phase, and subject to the approval of the Planning Board. Any phased project shall comply with the provisions of **Section XXX**.

COMMENTS: The 40R Regulations permit Projects to be phased; see also Section 11.4 below. Therefore, the Department will require the Smart Growth Zoning to contain this provision. (However, the 40R Regulations also state that the Smart Growth Zoning must require that Projects are not segmented to evade the size threshold for the Affordability requirements. See Section 6.1.)

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X. Plan Approval Procedures

10.1 Plan Approval Requirements

1. **Pre-application.** Prior to the submittal of a Plan Approval submission, a “Concept Plan” may be submitted to the Department of Planning & Community Development for an informal administrative review to help guide the development of the definitive submission for Project buildout and individual elements thereof. Such Concept Plan should reflect the overall building envelope areas; and general site improvements, groupings of buildings, and proposed land uses. The Concept Plan is intended to be used as an informational tool for both the Applicant and the City to ensure that the proposed Project design will be consistent with the Design Standards and other requirements of the SGOD. This is intended to be an optional and informal submittal.

COMMENTS: Voluntary pre-application provisions are recommended, although Chapter 40R does not permit a municipality to require a mandatory pre-application process.

2. An application for Plan Approval shall be submitted to the Planning Board on the form provided by the Planning Board, along with application fee(s), which shall be as set forth in the Planning Board Regulations. The application fee shall be \$75 per dwelling unit, or 10 cents per sq. ft. of commercial/industrial development whichever is greater. The application shall be accompanied by such plans and documents as may be required and set forth in the Planning Board Regulations. For any Project that is subject to the Affordability requirements of **Section 6.0**, the application shall be accompanied by all materials required under **Section 6.3**. All site plans shall be prepared by a certified architect, landscape architect, and/or a civil engineer registered in the Commonwealth of Massachusetts. All landscape plans shall be prepared by a certified landscape architect registered in the Commonwealth of Massachusetts. All building elevations shall be prepared by a certified architect registered in the Commonwealth of Massachusetts. All plans shall be signed and stamped, and drawings prepared at a scale of one inch equals forty feet (1"=40') or larger, or at a scale as approved in advance by the Planning Board. Also note there is an advertising fee.
3. **Filing.** An Applicant for Plan Approval shall submit twelve (12) hard copies and one (1) electronic copy of the application form and the other required submittals as set forth in the Planning Board Regulations with the City Clerk and a copy of the application including the date of filing certified by the City Clerk shall be filed forthwith with the Planning Board.

COMMENTS: The Department will require the Smart Growth Zoning to contain this provision if Projects are subject to Plan Approval.

4. **Distribution.** The Planning Board shall, within seven (7) days after receipt of the application, transmit one (1) copy of the application and plan to the Building Commissioner, City Engineer, Head of the Fire Department or his designee, Board of Health and Conservation Commission, Mass in Motion Project Coordinator, who may at their discretion investigate the application and report in writing their recommendations to the Planning Board. Any such board, agency or officer shall provide any written comments within thirty (30) of its receipt of a copy of the plan and application for approval. Notice of the filing of the petition shall be given to the City Clerk, Police Department, Department of Public Services, and School Department and further notice shall be given as required by the Planning Board.

COMMENTS: If an application is to be referred to any municipal officer, agency or board, including but not limited to the Administering Agency referenced in Section 6.D, the Department will require the Smart Growth Zoning to contain this provision.

5. **Hearing.** The Planning Board 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 Planning Board 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 application by the City Clerk. The required time limits for such action may be extended by written agreement between the applicant and the Planning Board, with a copy of such agreement being filed in the office of the City Clerk. Failure of the Planning Board to take action within said one-hundred twenty (120) days or extended time, if applicable, shall be deemed to be an approval of the Plan Approval application.

COMMENTS: The Department will require the Smart Growth Zoning to contain this provision if Projects are subject to Plan Approval.

6. **Peer Review.** 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.

COMMENTS: If an application is to be reviewed by outside consultants, the Department will require the Smart Growth Zoning to contain this provision.

XI. Design and Development Standards

11.1 Adoption and Applicability of Design and Development Standards

To ensure that new development shall be of high quality and be compatible with the character of building types, streetscapes, and other community features traditionally found in Salem, the following general design guidelines shall apply to the Smart Growth Overlay District (SGOD). The following characteristics are specific to the primary corridors of the Point Neighborhood:

- Buildings are set close to the street and occupy most of the lot with the building footprint
- Existing buildings provide a consistent context of building types and forms with a typical building ranging from three to four stories in height
- Buildings are simple and straightforward with some classical adornment and decorative trim at front building facades, entries, doors and windows

The Design and Development Standards shall be in effect upon adoption of this ordinance. The Planning Board may adopt design standards relative to the issuance of the plan approval for development projects within the SGOD, in addition to the standards set forth in this Section with the approval of DHCD. Design review will be conducted for applicable projects and will be administered by the Planning Board and City staff as part of the Plan Approval process as delineated in **Section 9** using the Design and Development Standards. The design review process and Planning Board project approval are mandatory for all non-public projects within the boundaries of the SGOD.

In addition to the Design and Development Standards applicable to the SGOD, other applicable guidance documents include, but are not limited to, the *City of Salem Sign Ordinance*, the *Salem Redevelopment Authority Sign Manual*, the *City of Salem Commercial Design Guidelines (2005)*, and the *Secretary of the Interior's Standards for the Treatment of Historic Properties, 1995* and the *Salem Historical Commission Guidelines Notebook 2010*.

11.2 Design and Development Standards

A. Sites and Blocks

1. **Building Placement.** Buildings shall be placed on the site to define the edges of streets and public spaces with primary facades oriented to the street or public space, minimally setback and occupying a majority of the lot frontage. Building placement shall respect existing patterns of building placement for the street on which they are located by matching the pattern of façade orientation, setback and lot frontage with minimal variation. The individuality of the building shall be subordinated to the overall continuity of the streets and public spaces. Buildings shall be placed to conceal parking at the interior or rear of building lots.

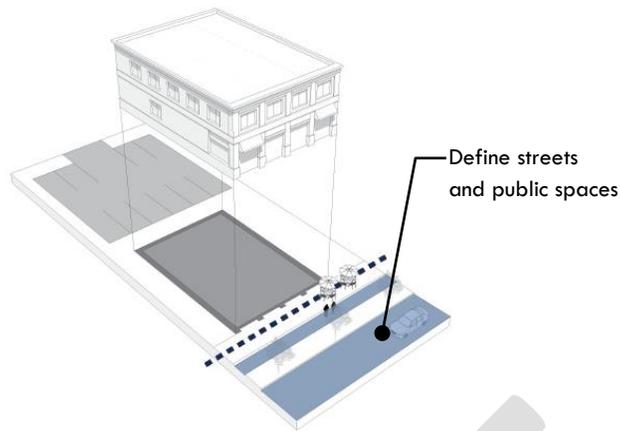


Figure. Building Placement

2. **Building Setbacks.** Building setbacks shall be in accordance with the SGOD Dimensional Regulations and context sensitive. The building setback from the front lot line must be consistent with the surrounding context of the lot. A building must be setback not more than 5 feet further from the street as measured against the existing abutting building that is closest to the street. For example, if a site has an existing building neighbor with a 0-foot setback, a proposed building could be setback up to 5 feet from the front lot line, but under no circumstance could be setback greater than the maximum established by the SGOD Dimensional Regulations. The building setback from the front lot line shall be minimized to strengthen continuity of the street form.

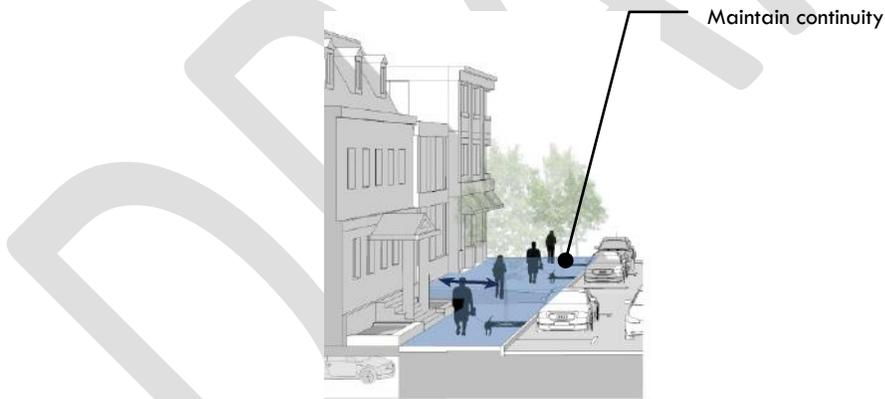


Figure. Building Setbacks

3. **Building Orientation.** Buildings shall be oriented with the primary building façade(s) facing the primary street frontage(s) of the site. Buildings must be oriented parallel to the front lot line to preserve a consistent façade line with the street. Primary building entrances shall be easily identified and be oriented to the street. The primary entry shall be clearly visible from the public street which provides the building's main orientation. In order to strengthen and define street form, corner buildings shall align to both street frontages.

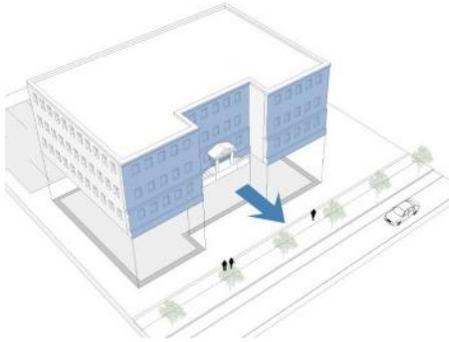


Figure. Building Orientation – Frame and address streets and public spaces

- 4. Streetwall Continuity.** The blocks of structures that line the street and define the visual limits of the street are known as a streetwall. On those streets in the SGOD with a continuous streetwall, every new project shall maintain and reinforce that streetwall continuity, resulting in infill buildings and projects that respect and continue existing street setbacks and concealed parking areas at the rear of the site.



Figure. Streetwall Continuity – Maintain and contribute to consistency

- 5. Street Corners.** Corner sites within the SGOD are of particular importance with the ability to define two street edges and an intersection. Projects located at a corner site shall be oriented and configured to define both street edges and the corner of the site. The corner may be defined positively by placing the building with built edges to the corner or defined negatively by framing an open space at the corner with built edges setback from the corner around a landscape plaza or open space.

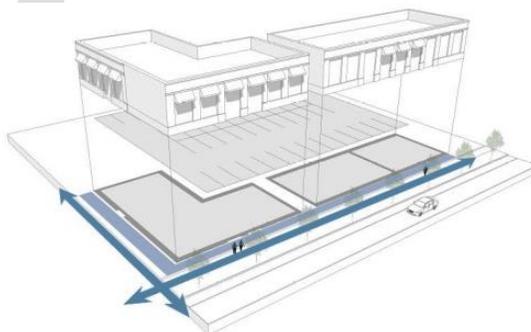


Figure. Street Corner – Acknowledge corner sites and multiple frontages

6. **Design Treatment of Edges.** Buildings that are not physically adjoined to abutters shall treat side yards and the spaces between buildings in a manner consistent with existing patterns of use, in terms of setbacks and use. Landscaping shall be used to define street edges and to buffer and screen edges that may have a negative visual impact, such as parking or loading areas. Access driveways and curb cuts using side yards may be combined between adjoining properties to access parking for multiple buildings at the interior of the block.

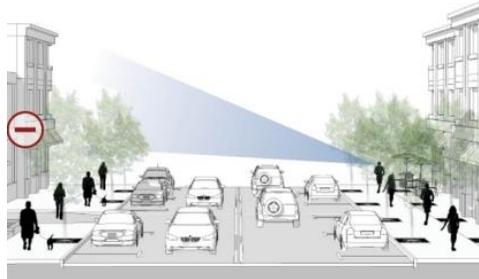


Figure. Design Treatment of Edges – Reinforce positive views and screen negative views

7. **District Preservation.** Building placement, design, massing and form shall ensure the preservation and enhancement of historic and architectural assets through context-sensitive design and contribute to human-scaled streets and public spaces by articulating ground floor levels with architectural components that relate to the scale of a human. No Design Standard shall be interpreted in a manner that would adversely impact the historic character, historic design integrity or historic quality of existing buildings and streetwalls.

B. Building Massing and Form

1. **Relationship to Existing Context.** Building massing, form and scale shall be complementary to and respectful of the patterns of existing buildings in the immediate vicinity.
2. **Building Form.** The shape and massing of new and renovated buildings shall provide a balance among building height, story-height, and building width and block width. The shape and massing of the building shall complement the abutting structures and define the edges of streets and open spaces. The building form and massing shall use the techniques described herein to reduce the impact of large uninterrupted building masses and façades and to create building forms that are human-scaled.
3. **Scale.** The scale of proposed revitalizations shall be compatible with the surrounding architecture and landscape context. Large scale developments or buildings shall be reduced in overall impact by providing variation in building massing. The configuration of architectural components shall be composed to reduce the overall scale of buildings to relate to a human-scale. Elements that may help to relate building massing proportionally to the size of the human body shall include: articulated building bases through a change in

material or color; placement of windows in a regular pattern; use of materials that are made of smaller human-scaled modules; articulation of building entries with canopies, porches or awnings, façade and roof projections (such as cornices, defined bays); and building height setbacks.

4. **Proportion.** The proportion of buildings should be related to the scale and importance of the streets on which they are located. The proportions of building elements shall be generally compatible with existing structures and the features and components of the façade.
5. **Building Height Setbacks.** A height setback shall be used to match the height of adjacent buildings of a lower height than the proposed structure with a break in the building massing and building setback at that height. The step back shall be a minimum of five feet. The remaining allowable building height shall be allowed above this cornice/parapet line. The setback reduces the visual effect of the additional height as viewed from the street and maintains continuity of the existing street wall. New buildings that are five stories in height must have a setback at the top of the fourth floor of not less than five (5) feet. The setback is a change in the vertical plane of the building façade, such that the fifth floor is set back from the first four floors of the building.
6. **Façade Length and Articulation.** Buildings or portions of a building with wide façades shall be divided into smaller parts through the pronounced variation in the primary wall plane. Façade length shall be articulated at least every fifty feet, or at a shorter length compatible with buildings in the immediate vicinity. This may be accomplished through the division of the building façade into smaller parts, variation in the cornice or roofline, or projections or recessions in the building façade.

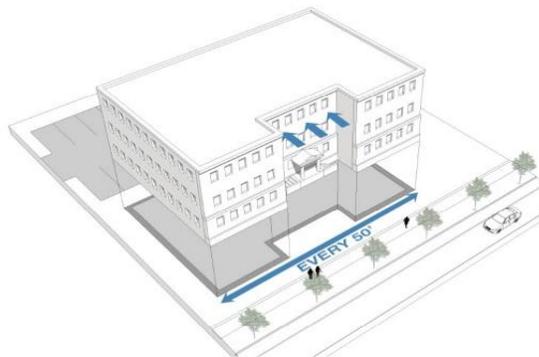


Figure. Façade Length and Articulation

7. **Modulation of Building Mass, Scale and Bulk.** Large building masses and volumes shall be reduced in scale and bulk by varying architectural form. By creating variations in roof form, cornice and roofline, treatment of corners and interruption of façade lengths, large building masses can be reduced to be more compatible with the context of the district. Blank walls adjacent to streets, alleys or open spaces are not permitted. The ground floors

of all buildings must be designed to encourage and complement pedestrian-scale activity by the use of windows and doors visible and accessible to the street. Long building facades shall be broken up with multiple entrances, creating the feel of a row of individual buildings. Where windows are not possible or appropriate to the intended use, vertical articulation in the form of raised or recessed surfaces piers, columns, pilasters, etc. must be used to break up blank walls. Building design elements, details and massing shall create a well-proportioned and unified building form and exhibit an overall architectural concept. Buildings shall exhibit form and features that reflect the functions within the building. Building façade elements shall be articulated to provide visual interest by incorporating architectural features such as belt courses or horizontal bands to distinguish individual floors; change in materials and color and/or texture that enhances specific form elements or vertical elements of the building; a pattern of windows; and/or bay windows to give scale to the structure. Spacing and width of bays shall provide intervals that create scale elements similar to surrounding buildings. The top of such buildings shall display a distinct profile or outline incorporating such elements as a projecting parapet, cornice, upper level setback or pitched roofline.

8. **Building Roofs.** Building roofs that are visible from the street shall be composed of materials compatible with the Project Area (for example slate or composite shingle roofing materials). Roofing materials shall not call undue attention to the roof itself with bright or contrasting colors, unless historically documented. Large, unbroken expanses of roof shall be articulated at least every one hundred feet, or at a shorter length compatible with adjacent or facing buildings, by interrupting the cornice or roofline, providing variation in roof form, or architectural components (for example a series of dormers or skylights). Building mechanical equipment located on building roofs, sites, or other locations shall be screened from view from the street.

C. Building Facades

1. **Façade Design and Relationship to Existing Context.** The façade, or primary building elevation, shall be compatible with the façade design of neighboring buildings so as to create continuity across buildings and the street edge. Primary building façades with frontage along the street shall be sensitive to the existing context of building façades along that street. Building façades facing the street shall have at least 25% of the overall façade in transparent windows and at least 40% of the ground floor façade in transparent windows.
2. **Architectural Treatments.** Architectural details include, but are not limited to, items such as the trim around entrances, corners, eaves, doors and windows; exterior cladding materials; and roof type. These components shall be coordinated to be compatible with the character of the existing buildings in the immediate vicinity of the Project Area and to reinforce the human-scaled aspects of the building design.

3. **Proportion and Pattern of Windows.** Window patterns and openings shall acknowledge and respond to existing adjacent window patterns in proportion, scale, rhythm and number of openings.
4. **Placement and Treatment of Entries.** Entrances shall be oriented to the primary street frontage and address the street with an active and welcoming entry composition that is integrated into the overall massing and configuration of the building form. The building façade shall integrate separate entrances for multiple tenants and uses into a coordinated ground-floor façade. Building and shop entrances shall be recessed to a minimum depth equal to the width of the door to prevent doors from swinging into the sidewalk. Building entries shall be used to introduce human-scaled components to the building façade such as storefronts, canopies, porches and stoops and provide a high level of visibility and transparency into ground floor uses to activate and add interest to the adjacent street.
5. **Ground Level Articulation.** The building façade shall clearly define commercial ground floor space and differentiate the articulation of the ground floor from the residential or mixed-use space on the building stories above. Ground level façades in non-commercial buildings shall be articulated in such a way that they are visually compatible with adjacent commercial storefronts and maintain an active and inviting street level façade. Articulation of the ground level of a building shall be used to visually anchor the base of the building on the site and to define a human-scaled base at the primary street frontage. Glass shall be used in storefronts to maintain transparency and an active and interesting ground level at the street.



Figure. Ground Level Articulation

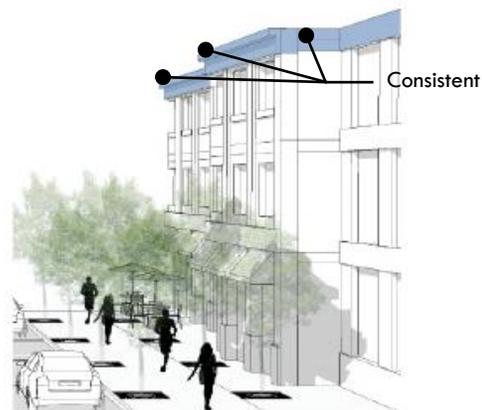


Figure. Roof Parapet and Cornice Lines

6. **Façade Projections.** Façade projections, depressions or changes in direction of the primary building plane shall be limited to ten feet and restricted to the setbacks required by the SGOD.

7. **Roof Parapet and Cornice Lines.** Building cornice lines shall be used to define building façades and create façade components consistent with historic parapet or cornice lines as originally designed and built in the district.
8. **Building Materials.** Building materials shall be selected to be compatible with or complementary to the surrounding context. Materials on the façade that are subject to deterioration (plywood or plastic) shall be avoided. New buildings shall use materials such as brick, cast stone, architectural stone, terra cotta, concrete, wood or shingle siding that incorporate varied texture and color. Brick masonry is the preferred main building material due to its durability and use throughout the district context, although other materials that are compatible with brick may be used. Detail elements such as a cast stone, tile or brick patterns that complement architectural features on existing buildings shall be incorporated.
9. **Signage.** The size and location of any sign shall abide by the *City of Salem Sign Ordinance*. Sign type, location and installation shall be consistent with other uses adjacent to and along the same street or within a consistent district. Free standing signs, permanently affixed signs independent of a building or structure, are prohibited.

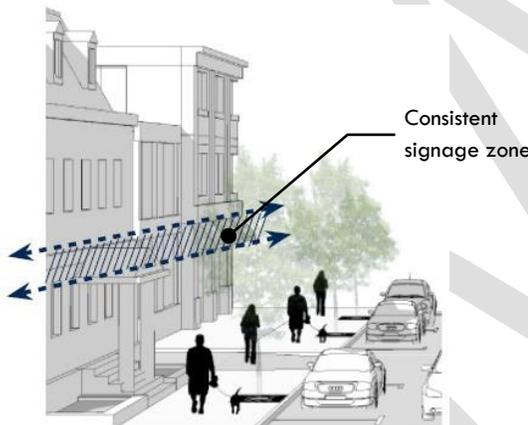


Figure. Signage

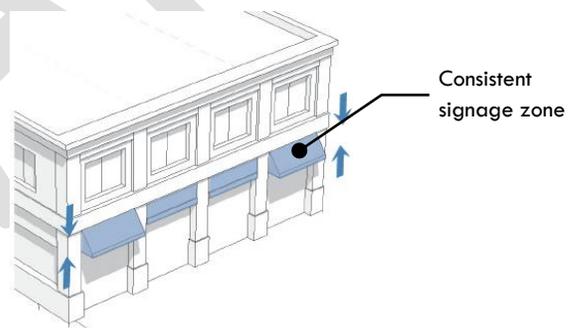


Figure. Multi-Tenant Signage

10. **Multi-Tenant Signage.** Signs for buildings with multiple tenants shall be coordinated upon a building façade to offer clear, orderly and legible information about the building, address, and tenants. A consistent height and line for a sign band in multiple tenant buildings shall be created in conjunction with the ground floor storefront and articulation; signage shall not be placed on the upper façade of multi-story buildings.
11. **Awnings.** Awnings may be used to provide a human-scaled element to the ground floor of building façades and protect building entries. Awnings shall not be placed on a building such that they would obscure important architectural details by crossing over pilasters or covering windows. Multiple awnings on a single building shall be consistent in size, profile, location, material, color and design. On multi-tenant buildings the awnings

shall be allowed to vary in color and details, but shall be located at the same height on the building façade.

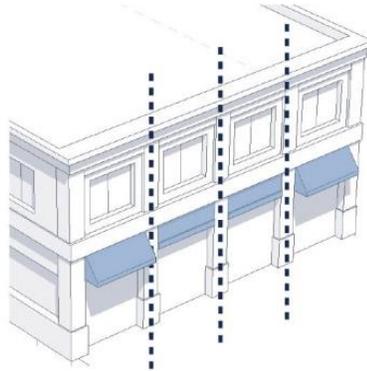


Figure. Awnings

D. Public and Private Open Spaces

1. **Relation to Surrounding Public Spaces.** Proposed and existing buildings and properties adjacent to public open spaces shall be oriented to define the edges of those open spaces and provide a transparent ground floor to activate the public space. Building façades facing the open space shall have at least 25% of the overall façade in transparent windows and at least 40% of the ground floor façade in transparent windows.
2. **Private Use of Public Spaces.** Generally, public spaces shall be reserved for public uses. Sidewalk use for temporary displays, kiosks, etc. shall be coordinated with and approved with the project and must conform to other applicable standards and ordinances and be subject to any other municipal approvals as applicable. Clearance and access required for public circulation shall be maintained at all times.
3. **Private Site Details.** Public and private open spaces shall be designed, landscaped, and furnished to be compatible with or complementary to the character of the district in which they are located. Public art shall be used to define and punctuate public spaces. All art installations shall maintain clearances in public spaces, and be constructed of materials that are durable, easily maintained and that do not present safety hazards.
4. **Open Space.** Underutilized or vacant space within the Project Area shall be considered for landscape installations or to be used as a pocket park. Such improvements to vacant parcels can have a dramatic impact on the impression of the district.

E. Landscape

1. **Landscape Use and Orientation.** Site, block and building orientation and configuration shall use landscape features to shield negative views, define edges and frame streets and public spaces. No plantings shall obscure site entrances and exit drives, access ways, or

road intersections or impair visibility of commercial storefronts. Tree species shall be selected to maintain relatively clear views of the ground floor and adequate height clearances for sidewalk circulation. Site and landscape features shall be integrated with the design of new construction and reflect a coordinated site and building design. Landscaping shall be used to reinforce human-scaled elements of the building and site and to create outdoor spaces that are scaled comfortably for people.

2. **Site and Street Edges.** Landscape strips with street trees, street trees in sidewalk tree wells or landscaped medians shall be used as is consistent with the existing landscape patterns of the location of proposed improvements. Landscaping shall be used to define the street edge if the existing pattern of building placement includes a front setback.

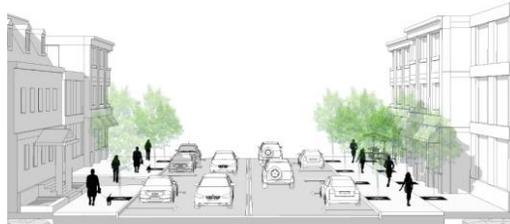


Figure. Landscape Site and Street Edges

3. **Buffers and Screens.** Landscape buffers shall be used to screen parking, loading and service areas that may be visible from public streets or open spaces. All views that could be associated with a negative impact should be screened with strategically selected and located landscape features. Screening may include architectural walls, fences or other visual barriers.

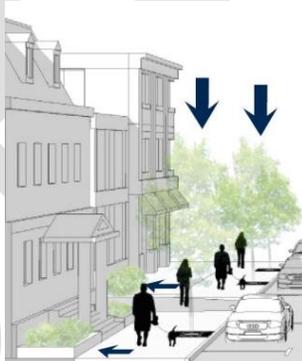


Figure. Landscape Buffers and Screens

4. **Trees and Plantings.** Trees, shrubs, and groundcover shall be selected to be appropriate to the conditions of a particular site and the climate of Salem. Street tree species selection shall ensure compatibility with neighboring conditions so as to ensure continuity of the street edge and public realm identity.

F. Parking

1. **Parking Placement.** Parking shall be located at the interior of blocks, behind buildings or at the rear of sites, away from prominent site edges, public spaces and streets.

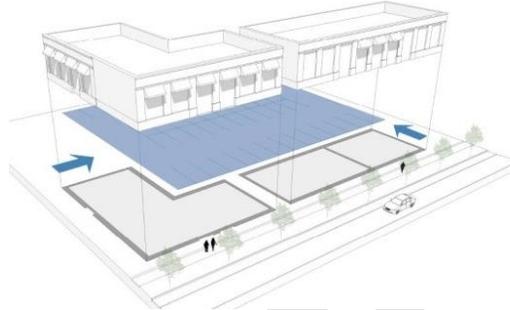


Figure. Placement of Parking

2. **Parking Orientation.** Parking lots shall be designed to recede in the visual environment by creating separations between parking areas and the edges of streets and sidewalks, buffering parking areas with landscaping, and screening parking areas behind buildings or other site components (fences, gates, walls or hedges). Parking placement requires that parking be placed out of prominent view; certain edges of parking lots may be more visible than others and would require treatment of the edge of the parking lot as described to mitigate the negative view.
3. **Structured Parking.** Structured parking, where provided, shall be configured on the site in such a way to allow it to be lined by active building uses at the edges of primary streets and public spaces. Placement of the structured parking should be at the interior of a block, surrounded on visible edges by active retail and residential uses to avoid inactive street edges created by the parking structure. Alternatively, the structured parking could be arranged such that the ground floor uses are available for commercial space and the upper parking levels are articulated to create a more attractive structure above.

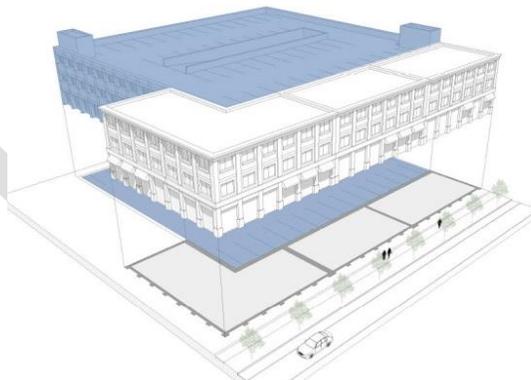


Figure. Structured Parking

4. **Parking Landscape.** Generous landscape areas shall be designed to ensure plant health, including adequate area for snow removal, and shall create planting strips of not less than

10 feet wide for trees. No landscape island shall be less than 6 feet wide. Landscape areas shall be placed at all exterior edges of the parking area that abut adjacent properties, streets or public spaces. Additional landscape medians shall be provided between parking spaces to break up the impervious surfaces and mitigate the visual impact of parking.

5. **Landscape of Pre-existing Parking Lots.** Upon the expansion of an existing parking lot containing twenty or more parking spaces and/or an alteration of a structure or change in uses that increases the parking requirements by five or more spaces, the entire existing parking lot shall be brought into compliance with these standards to the degree feasible.
6. **Curb Cuts.** Curb cuts shall comply with the *City of Salem Zoning Ordinance* maximum width of twenty-four feet and shall be minimized and combined whenever possible. Every curb cut shall provide a continuous and uninterrupted pedestrian walkway. All curb cuts shall be designed so that driveways slope up from the street to the level of the sidewalk. Curb cuts shall not be designed so that the drive is set at the street elevation.

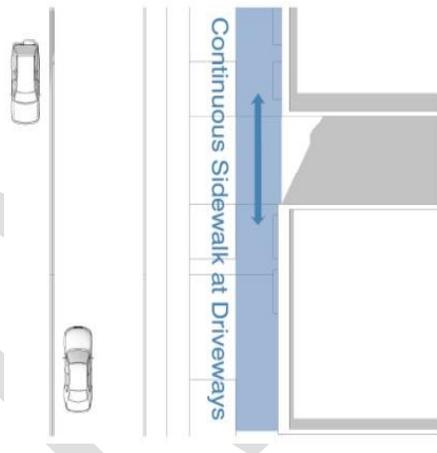


Figure. Curb Cuts and Access

7. **Parking Details.** Granite curbs shall be used to protect planting areas, define sidewalks, walkways and parking area edges.
8. **Parking areas.** Where possible, parking areas must be interconnected in a manner that allows the unobstructed flow of pedestrians between uses and parking areas. Driveways shall be located on side streets where possible, and garage entries shall be located behind buildings or on side streets where possible. Garage entries facing streets shall have doors designed to be compatible with a pedestrian scale and aesthetic, characterized by windows, panels or other articulations. Adjacent parking areas on abutting properties shall be connected for improved circulation where possible.

G. Streetscape and Sidewalks

1. **Sidewalk Configuration.** Sidewalks shall have a minimum clear width of 4'-0"; when space is available within the right-of-way, sidewalks shall be widened to 8'-0" clear. Sidewalks shall be widened to accommodate street trees, landscaping and outdoor furnishing and amenities. Sidewalks shall be continuous and uninterrupted at driveways and curb cuts to reinforce priority for pedestrians. New sidewalks and repairs to existing sidewalks shall maintain the concrete scoring and brick pattern used throughout the Project Area. Brick shall be maintained or replaced and shall be introduced if adjacent sidewalks are brick.
2. **Public Transit.** Street and streetscape designs shall integrate existing or anticipated public transit improvements and facilities, such as bus stops, bicycle-sharing hubs, or bus drop-off lanes. Permanent infrastructure, such as bus stops, shall be designed to contribute to the organization of these features while maintaining adequate sidewalk clearances.
3. **Pedestrian Use.** Sidewalks shall be provided on both sides of the street. Corner and curb radii shall be reduced to decrease pedestrian crossing distances and to slow traffic speeds at downtown intersections including such techniques as curb extensions and neck downs to increase safety for pedestrians. Pedestrian crosswalks with accessible curb ramps shall be provided at every intersection.
4. **Bicycle Use.** Bicycle travel lanes, road markings, signage and sidewalk amenities shall be provided in coordination with roadway improvements. Bicycle lanes shall be a minimum of four feet wide when not adjacent to parking and a minimum of five feet wide when adjacent to parking.
5. **Landscape.** Rows of street trees shall be provided on both sides of all primary streets. To allow healthy tree growth, structural soil shall be used under adjacent sidewalks or paving when street trees are planted in tree wells or planting strips narrower than ten feet. Street trees at sidewalks and parking shall be used to define the street and site edges. Street tree species selection shall be compatible with or complementary to adjacent street trees so as to ensure continuity of the street edge and public realm identity.
6. **Street Furniture.** Permanent street furniture including light fixtures, benches, bike racks, trash and recycling receptacles, and newspaper stands shall be consistent with City standards and coordinated with the City. All street furniture shall be integrated with street and sidewalk circulation to ensure adequate clearances, access and convenience of the location of these amenities. Street furniture shall be clustered at convenient locations that are plainly visible and accessible.

H. Lighting

1. **Light Placement.** Placement of lighting fixtures shall be designed to provide adequate ambient light levels for safety and usefulness and shall be configured to highlight pedestrian paths and building entrances.
2. **Site Lighting.** Site lighting shall use shielded and full cut-off fixtures that avoid spilling light onto neighboring streets, properties, structures and above into the night sky. Site lighting shall use low height fixtures, between fourteen and seventeen feet, which shall reinforce the human scale.
3. **Building Lighting.** Building lighting shall use shielded fixtures that avoid spilling light onto neighboring streets, properties, structures and above into the night sky. Building lighting shall focus on illuminating building entries, display windows and building signs. Uncoordinated architectural lighting of façades, building accents, awnings or other features shall be avoided to avoid contributing to a disrupted or disjointed lighting effect in the SGOD.
4. **Signage Lighting.** Building signage may be lit by a fixture(s) that shall light the sign and shield other views from glare. Light fixtures shall be consistent with the character of the building or shall be hidden from view.

XII. Plan Approval Decisions

12.1 Plan Approval

1. **Plan Approval.** Plan Approval shall be granted where the Planning Board finds that:
 1. the applicant has submitted the required fees and information as set forth in the Planning Board Regulations; and
 2. the Project as described in the application meets all of the requirements and standards set forth in this **Section 12** and the Planning Board Regulations, or a waiver has been granted therefrom; and
 3. any extraordinary adverse potential impacts of the Project on nearby properties have been adequately mitigated.

For a Project subject to the Affordability requirements of **Section 6.0**, compliance with condition (2) above shall include written confirmation by the Administering Agency that all requirements of that Section have been satisfied. The Planning Board may attach conditions to the Plan Approval decision that are necessary to ensure substantial compliance with this **Section 12**, or to mitigate any extraordinary adverse potential impacts of the Project on nearby properties.

COMMENTS: The 40R Regulations state that if the Smart Growth Zoning provides for Plan Approval of Projects within the District, it shall specify the criteria upon which the Approving Authority may condition its approval. The Department will require the Smart Growth Zoning to contain this provision if Projects are subject to Plan Approval.

2. **Plan Disapproval.** A Plan Approval application may be disapproved only where the Planning Board finds that:
 1. the applicant has not submitted the required fees and information as set forth in the Regulations; or
 2. the Project as described in the application does not meet all of the requirements and standards set forth in this **Section 12** and the Planning Board Regulations, or that a requested waiver therefrom has not been granted; or
 3. it is not possible to adequately mitigate significant adverse project impacts on nearby properties by means of suitable conditions.

COMMENTS: The 40R Regulations state that if the Smart Growth Zoning provides for Plan Approval of Projects within the District, it shall specify the criteria upon which the Approving Authority may disapprove a proposed Project, or condition its approval. Chapter 40R states that a proposed Project may be denied Plan Approval only on the grounds that:

- 1) the Project does not meet the conditions and requirements set forth in the Smart Growth Zoning;*
- 2) the applicant failed to submit information and fees required by the Smart Growth Zoning and necessary for an adequate and timely review of the design of the Project or potential Project impacts; or*
- 3) it is not possible to adequately mitigate significant adverse Project impacts on nearby properties by means of suitable conditions.*

To implement this provision, the Department will require the Smart Growth Zoning to contain this provision if Projects are subject to Plan Approval.

3. **Waivers.** Upon the request of the Applicant, the Planning Board may waive dimensional and other requirements of **Section 7**, including the Design Standards, 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 PCOD, or if it finds that such waiver will allow the Project to achieve the density, Affordability, mix of uses, and/or physical character allowable under this **Section XXX**.

COMMENTS: Chapter 40R states that the Smart Growth Zoning may allow the Approving Authority, through the Plan Approval process, to waive specific dimensional and other standards (other than Affordability requirements) otherwise applicable to a Project, if it finds that the waiver will allow the Project to achieve the density, Affordability, mix of uses, and/or physical character allowable under the Smart Growth Zoning, and that the Project is consistent with the Design Standards. The 40R Regulations state that the waiver criteria must be defined in the Smart Growth Zoning. Therefore, if the community intends to grant waivers through the Plan Approval process, the Smart Growth Zoning must contain this provision.

4. **Project Phasing.** The Planning Board, as a condition of any Plan Approval, may allow a Project to be phased at the request of the Applicant, or it may require a Project to be phased for the purpose of coordinating its development with the construction of Planned Infrastructure Improvements (as that term is defined under 760 CMR 59.00), or to mitigate any extraordinary adverse Project impacts on nearby properties. For Projects that are approved and developed in phases, the proportion of Affordable to market rate units shall be consistent across all phases, and the proportion of Existing Zoned Units to Bonus Units (as those terms are defined under 760 CMR 59.00) shall be consistent across all phases.

COMMENTS: The Chapter 40R Regulations state that the Smart Growth Zoning may permit the Plan Approval approvals of proposed Projects to be phased for the purpose of coordinating development with the construction of Planned Infrastructure Upgrades or that are required to mitigate any extraordinary adverse Project impacts on neighboring properties. For Projects that are approved and developed in phases, the proportion of Affordable units and the proportion of Existing Zoned Units to Bonus Units shall be consistent across all phases. Therefore, the Department will require the Smart Growth Zoning to contain this provision if Projects are subject to Plan Approval.

5. **Form of Decision.** The Planning Board shall issue to the applicant a copy of its decision containing the name and address of the owner, identifying the land affected, and the

plans that were the subject of the decision, and certifying that a copy of the decision has been filed with the City Clerk and that all plans referred to in the decision are on file with the Planning Board. 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 the failure of the Planning Board 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.

COMMENTS: The Department will require the Smart Growth Zoning to contain this provision if Projects are subject to Plan Approval.

6. **Validity of Decision.** A Plan Approval shall remain valid and shall run with the land indefinitely, provided that construction has commenced within two (2) years after the decision is issued, which time shall be extended by the time required to adjudicate any appeal from such approval and which time shall also be extended if the Project proponent is actively pursuing other required permits for the Project or there is other good cause for the failure to commence construction, or as may be provided in a Plan Approval for a multi-phase Project.

COMMENTS: The Department recommends that the Smart Growth Zoning contain this provision if Projects are subject to Plan Approval.

XIII. Change in Plans After Approval by Planning Board

13.1 Minor Change

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

COMMENTS: The Department recommends that the Smart Growth Zoning contain this provision if Projects are subject to Plan Approval.

13.2 Major Change

Those changes deemed by the Planning Board to constitute a major change in a Project because of the nature of the change in relation to the prior approved plan, or because such change cannot be appropriately characterized as a minor change as described above, shall be processed by the Planning Board as a new application for Plan Approval pursuant to **Sections 9.0 - through 13.0**.

COMMENTS: The Department recommends that the Smart Growth Zoning contain this provision if Projects are subject to Plan Approval.

XIV. Severability

If any provision of this Section is found to be invalid by a court of competent jurisdiction, the remainder of this Section shall not be affected but shall remain in full force. The invalidity of any provision of this Section shall not affect the validity of the remainder of the Salem Zoning Ordinance.

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