

**SUDBURY PLANNING BOARD
INCENTIVE SENIOR DEVELOPMENT BYLAW
RULES AND REGULATIONS**

SECTION I. AUTHORITY

A. AUTHORITY

Pursuant to the authority granted by Section 5400 of the Zoning Bylaws (Article IX) of the Town of Sudbury the Planning Board has adopted the following rules and regulations governing Incentive Senior Developments (ISD) in the Town of Sudbury.

B. PURPOSE

The purpose of these regulations is to guide the planning, design and construction of Incentive Senior Developments in a manner consistent with the objectives of the ISD bylaw, which are to provide a more affordable means of housing for a maturing population; to provide a type of housing which reflects the senior population desire to reduce residents' burdens of property maintenance; to provide a type of development which reduces demands on municipal and educational services; and to promote flexibility in land use planning in order to improve site layouts, protect natural features and environmental values and utilize land in harmony with neighboring properties.

C. APPLICATION

A development or any phase thereof under Section 5400 of the Zoning Bylaw shall comply with these regulations and all requirements for an application contained in that section.

SECTION II. TERMS/FORMS/FEEES

A. TERMS

1. Applicant - the person or persons, including a corporation or other legal entity, who applies for issuance of a special permit hereunder. The Applicant must own, or be the beneficial owner of all the land included in the planned development site proposed, or have authority from the owner(s) to act for him or hold an option or contract duly executed by the owner(s) and the Applicant giving the latter the right to acquire the land to be included in the site.

2. Application - A duly submitted, signed and completed request for a special permit under Section 5400 of the Zoning Bylaw of the Town of Sudbury filed with the development plan and all required forms, fees and information in accordance with the Zoning Bylaw and these regulations.
3. Attached Dwelling Unit - A dwelling unit that has at least one exterior wall in common with another unit.
4. Buildable Lot - For the purposes of this bylaw, a buildable lot means an area of land meeting the minimum lot area and frontage requirements for the underlying zoning district in which it is located, and which contains not more than 25% of its minimum lot area which is underwater land or wetland resource as defined in Chapter 131, Section 40 of the M.G.L. or in the Sudbury Wetlands Administration Bylaw, as amended from time to time, excluding wetland buffer areas, nor any land designed for surface collection of storm water or drainage waters, and which contains suitable soils for sub-surface sewerage disposal in accordance with the rules and regulations of the Town of Sudbury and applicable laws of the Commonwealth of Massachusetts.
5. Dwelling Unit – A residence. Each residence shall contain at least a kitchen-living area, a bathroom and one or more bedrooms.
6. Incentive Senior Development Development - An approved plan and resulting construction subject to a special permit granted by the Planning Board pursuant to Section 5400 of the Zoning Bylaw.
7. Stages (or Phases) of Development - The work to be done and the number of structures to be built within any of the time limits approved by the Planning Board in a development schedule, including dates.

B. FORMS

Forms to be used in connection with an ISD are attached hereto or are available from the Planning Board agent or the Town Clerk.

C. FEES

All costs incurred by the Town of Sudbury to administer the requirements of the Massachusetts General Laws, the Zoning Bylaw, the Rules and Regulations Governing the Subdivision of Land, these regulations and other applicable rules and regulations of the Planning Board and other boards and commissions or departments of the Town of Sudbury in connection with an application for a special permit for an ISD shall be borne by the applicant for the special permit.

1. Application Fees

a) Preliminary Development Plan - An escrow deposit of \$500.00, plus a non-refundable filing fee of \$25 per proposed dwelling unit shall be paid at the time of filing a preliminary application for an ISD. Such deposits shall be submitted in check form only (no cash will be accepted), such check made payable to the Town of Sudbury. If prior to Planning Board action on the special permit application, the Board finds that the amount on deposit, as prescribed above, is not sufficient to cover the actual costs incurred, the applicant shall be required to submit forthwith the additional amount deemed necessary to cover such costs. Failure to do so shall be deemed reason for disapproval of said application by the Board. The Board shall notify the applicant of such required amount in writing by certified mail. Failure to submit such additional amount as required by the Board within seven (7) days of receipt of said notice shall be deemed reason by the Board to disapprove said application. If the actual costs incurred by the Town for review of said application is less than the amount on deposit as specified above, the Board shall authorize that such excess amount be refunded to the applicant.

b) Definitive Development Plan - An escrow deposit of \$2,000.00, plus a non-refundable filing fee of \$100 per proposed dwelling unit shall be paid at the time of filing a definitive application for an ISD. Such deposits shall be submitted in check form only (no cash will be accepted), such check made payable to the Town of Sudbury. If prior to Planning Board action on the special permit application, the Board finds that the amount on deposit, as prescribed above, is not sufficient to cover the actual costs incurred, the applicant shall be required to submit forthwith the additional amount deemed necessary to cover such costs. Failure to do so shall be deemed reason for disapproval of said application by the Board. The Board shall notify the applicant of such required amount in writing by certified mail. Failure to submit such additional amount as required by the Board within seven (7) days of receipt of said notice shall be deemed reason by the Board to disapprove said application. If the actual costs incurred by the Town for review of said application is less than the amount on deposit as specified above, the Board shall authorize that such excess amount be refunded to the applicant.

c) Phase Review - If the development is constructed in more than one phase, an additional fee shall be assessed for review of a specific phase subsequent to the original application, at a cost of \$50.00 per dwelling unit included in the phase to be reviewed by the Planning Board. There shall be no extra fee for a project reviewed in one phase.

SECTION III. ADMINISTRATION

A. SPECIAL PERMIT FINDINGS

The Planning Board shall grant a permit for an ISD only if it shall find that: (i) the ISD complies with the objectives of ISDs as stated in Sections 5400 of the Zoning Bylaw; (ii) the ISD is in an appropriate location and is not detrimental to the neighborhood and does not significantly alter the character of the zoning district; (iii) adequate and appropriate facilities will be provided for the proper operation of the ISD; (iv) The ISD would not be detrimental or offensive to the adjoining zoning districts and neighboring properties due to the effects of lighting, odors, smoke, noise, sewage, refuse materials or other visual nuisances; (v) the ISD would not cause undue traffic congestion in the immediate area; (vi) the ISD responds to the recommendations of the Town boards and agencies; and (vii) the granting of the Special Permit would not result in unsuitable development of the land in question.

B. COMPLIANCE WITH THE ZONING BYLAW

The Planning Board will not approve or modify and approve any plan unless all buildings, structures and lots shown on said plan comply with the Zoning Bylaw of the Town of Sudbury, or unless a variance from the terms thereof has been properly granted.

C. WAIVER OF COMPLIANCE

Compliance with the requirements of these rules and regulations may be waived when, in the judgment of the Planning Board, such action is in the public interest and not inconsistent with the objectives of these regulations and Section 5400 of the Zoning Bylaw. In waiving strict compliance the Planning Board may require such alternative conditions as will serve substantially the same objective as the standards or regulations waived. All waivers shall be requested by the applicant in writing to the Planning Board.

D. MODIFICATIONS TO APPROVED DEVELOPMENTS

Any application for modification to an approved development under these regulations shall be reviewed by the Planning Board to determine the extent of modification and its impact on the surrounding neighborhoods, adjacent properties, the environment and any other consideration deemed appropriate, and in its opinion the Planning Board shall determine whether the modification requires a new public hearing or can be decided by a vote of the Board. In all cases, the applicant shall file an Application for Modification with the Board and the request shall be discussed at a regularly scheduled meeting of the Board.

E. TITLE CERTIFICATION

Whenever the fee or any lesser interest in land is offered to the Town under these rules and regulations, conveyance of the same shall be by a deed granting good and clear record and marketable title thereto subject only to such exceptions as the Planning Board may approve. Further, at least ten (10) days before such conveyance, the party offered such interest shall, at its expense, deliver to the Planning Board an opinion of counsel certifying that title is of the quality required herein, which opinion shall be updated and confirmed to the time of conveyance.

F. MARKETING PLAN/LOCAL PREFERENCE

Marketing of units in an Incentive Senior Development shall comply with all Fair Housing Laws and shall include, to the extent legally allowable, a strategy for marketing units to Sudbury residents, their immediate families, Town of Sudbury employees and their immediate families. The marketing plan shall further demonstrate a strategy for occupying all constructed units within a finite time period.

G. NEED FOR ADDITIONAL COMMUNITY SERVICES

If a proposed Incentive Senior Development is found by the Planning Board to require special needs for residents which are not currently offered by the Town or another regional agency, or if it finds that the type or number of units in a proposed ISD will place an undue burden on existing services, the Planning Board may require the applicant to provide services as part of the approval for an ISD, or may require a monetary contribution from the applicant in order for the Town to provide services necessary for the livelihood and/or well being of the residents of the ISD or the senior citizen population of Sudbury in general.

H. SEVERABILITY/AMENDMENT

If any section, paragraph, sentence, clause, or provision of these regulations shall be adjudged not valid, the adjudication shall apply only to the material so adjudged and the remainder of these regulations shall be deemed valid and effective. These regulations or any portion thereof may be amended, supplemented or repealed from time to time by the Planning Board by its own motion after a public hearing.

SECTION IV. PROCEDURE FOR ISD APPROVAL

A. PRELIMINARY DEVELOPMENT PLAN

1. Submission

Applicants for an ISD are required to submit a Preliminary Development Plan of an ISD to the Planning Board. The purpose of such review is to ensure complete knowledge of applicable rules and regulations, zoning provisions and other laws affecting the ISD to ensure that an adequate plan is submitted, to familiarize the Board and the community with the proposed development, and to save time in preparation of final plans.

Twelve (12) copies of the Preliminary Development Plan along with the properly executed application form and fee shall be submitted to the Board during regularly scheduled office hours. The extra copies of the plan shall be distributed by the Planning Board to other Town Boards and Commissions for their review.

2. Contents

A Preliminary Development Plan shall include the following information and such additional information as the Planning Board may require:

a) Site Rationale

Statement including how the proposed ISD is compatible with the objectives of Section 5400 of the Zoning Bylaws. This should include an assessment of the alternatives explored by the applicant and the reasons for proceeding with an ISD.

b) Site Analysis

Map and description indicating the location of the proposed site; total acreage; estimate of the total acreage of wetlands; topography at 2 foot contour intervals where buildings are proposed and 5 foot contour intervals for open land; flood plain boundaries, flowing streams, drainage ways, ponds, surface water bodies; existing perimeter of trees, significant individual trees and tree masses; description of sensitive environmental areas; general description of soils and percolation capabilities; existing buildings, roads, trails; productive agricultural land; open vistas; sites and structures of historical importance; and other natural features.

c) Density Plan

A preliminary subdivision plan showing the development of the tract under conventional zoning for the purposes of determining density. The requirements for such plan are enumerated Section 5460(b) of the Zoning Bylaw.

d) Development Plan

A site plan showing the proposed development of the property as an ISD, including buildings, roads, driveways, recreational areas, open space areas, stormwater management areas, wastewater disposal areas and any other construction relative thereto. This plan can be overlaid on the Site Analysis Plan to illustrate placement of structures in relation to the existing topography and other natural features.

e) Building Data

Statement of the number of proposed dwelling units; type of construction and construction materials; height of buildings; and length, width and location of roadways.

f) Site Context

Locus map of the development site showing all proposed streets in the development in relation to existing surrounding streets sufficient to readily orient the development location within the Town.

g) Abutters List

Name and addresses of all property owners (from the most recent tax lists and certified by the Town Assessing Dept.) within 300 feet of the perimeter of the ISD site. A map indicating these properties shall also be submitted.

h) Information on Applicant

Information as to the qualification, experience and financial resources of the applicant sufficient to construct and complete the proposed ISD.

3. Planning Board Review and Action

- a) Upon receipt of a preliminary application for an ISD, the Planning Board shall transmit forthwith a copy of the application and such portions of the accompanying data and plans as the Planning Board deems appropriate to the Board of Selectmen, Board of Health, Conservation Commission, Engineering Department, Design Review Board, Historic Districts Commission, Building Inspector, Fire Department, Police Department and the Sudbury Water District for their review and comments.
- b) A public hearing shall be held on the preliminary plan and application. The Planning Board shall comply with all applicable requirements of Chapter 40A of the General Laws with respect to public hearing and notice. Within 60 days after the close of the public hearing the Planning Board shall advise the applicant of the Board's approval or disapproval of the proposed concept of the ISD, and shall specify the respects, if any, in which it disapproves.

B. DEFINITIVE DEVELOPMENT PLAN

1. Submission

Each application for a special permit for an ISD shall include a Definitive Development Plan comprising all information contained in any Preliminary Development Plan theretofore submitted and all other requirements enumerated below. Twelve (12) copies of the Definitive Development Plan along with the properly executed application form and fee shall be submitted to the Board during regularly scheduled office hours. The extra copies of the plan shall be distributed by the Planning Board to other Town Boards and Commissions for their review.

2. Plan Contents

A Development Plan, prepared and stamped by a Registered Professional Engineer, containing all of the data, documents and plans required for a Preliminary Development Plan in the preceding paragraph IV.A.2, and also the following information as the Planning Board shall deem it necessary to require:

- a) Legal description of the ISD site, containing at least 10 acres.
- b) Proposed method of stormwater management, including drainage calculations.
- c) Proposed method of wastewater disposal, including soil test data.

- d) Infrastructure associated with water supply and connection to Sudbury Water District.
- e) Plan and profile of all roads (access and internal).
- f) Size and number of parking areas and spaces.
- g) Landscape Plan for the perimeter and interior.
- h) Snow removal plan.
- i) Location of outdoor storage areas.
- j) Location of proposed recreational and/or condominium association facilities.
- k) Location of all fire hydrants.
- l) Location of all manholes.
- m) Architectural drawings prepared and stamped by a Registered Architect, including exterior details, typical floor plans and elevations for each type of building from every side. Architectural renderings showing the view of the development from abutting streets and other areas in public view are also required.
- n) If the ISD is to be constructed in phases, a schedule shall indicate approximately the number of units and sequence of improvements in the phases, including dates.
- o) Statement of hours of construction and information as to means of minimizing construction-related disturbances.
- p) All such other documents, information, data and plans as may be required in accordance with provisions of Section 5460 of the Zoning Bylaw.

3. Additional Contents

In addition to the Plan Contents specified above, the applicant shall submit the following in such detail as the Planning Board shall deem it necessary to require:

- a) Information as to the qualification, experience and financial resources of the applicant sufficient to construct and complete the proposed ISD.

- b) Identification of the applicant's professional and development associates and consultants for the ISD, including architects, engineers, environmental consultants and attorneys.
- b) Information as to the means by which the applicant proposes to comply with and fulfill the requirements of Section 5433 of the Zoning Bylaw (Age Qualification).
- c) Information as to the means by which the applicant proposes to comply with and fulfill the requirements of Section 5450 of the Zoning Bylaw (Price Restrictions).
- d) Samples of documentation of the condominium association or other legal structure proposed to be formed, including forms and plans to be used to organize and manage the same.
- e) Copies of all proposed covenants, easements and other restrictions which the applicant proposes to grant to the Town, the Conservation Commission, utility companies, or the condominium organization and the owners thereof, including plans of land to which they are intended to apply.
- f) Copies of all proposed deed restrictions to assure sale and resale to qualifying households.
- g) Title certification for the land included in the development.
- h) Expert Opinion/Environmental Impact Study - At any time during the process of review and consideration of the special permit application, either before or after the public hearing, the Board may require expert technical information or opinion or environmental or other impact studies on any aspect of the subdivision or the impact of the subdivision upon the community.

C. REVIEW AND ACTION BY THE PLANNING BOARD

1. Special Permit Review

- a) Upon receipt of an application for a Special Permit for an ISD, the Planning Board shall transmit forthwith a copy of the application and such portions of the accompanying data and plans as the Planning Board deems appropriate to the Board of Selectmen, Board of Health, Conservation Commission, Department of Public Works, Design Review Board, Park and Recreation Commission, Historic Districts Commission, Building Inspector, Fire Department, Police Department and the Sudbury Water

District. If any such board or agency shall not make a written recommendation or submit a written report to the Planning Board within 35 days of receipt of the application, such board or agency shall be deemed to have no opposition to the issuance of a Special Permit for an ISD.

- b) The Planning Board shall comply with all applicable requirements of Chapter 40A of the General Laws with respect to public hearing and notice. Public hearing on the application shall be held within 65 days after the filing thereof, and the decision of the Planning Board shall be made within 90 days after the close of the public hearing.
- c) In order to implement a special permit for an ISD and to assure compliance therewith, the Planning Board shall in the special permit set forth requirements and conditions that before a building permit is issued for any buildings in any stage or phase of the ISD: (i) the applicant shall have submitted to the Planning Board detailed plans showing the locations, designs and layouts of such buildings and all driveways and accessory structures included in such stage or phase, (ii) the applicant shall have provided security by covenant, bond or other means satisfactory to the Planning Board securing the construction and installation of driveways, utilities and related services, (iii) the Planning Board shall have determined that the detailed plans are in substantial conformity with the conceptual plans approved in the special permit, and (iv) the Planning Board shall have so notified the Building Inspector; and the Planning Board may in a special permit for an ISD set forth further requirements and conditions as the Board shall deem appropriate to accomplish the purposes of this Bylaw, including requirements of recording of plans and documents and report thereof to the Board.

2. Approval, Approval with Modifications, or Disapproval

Within 90 days after the close of the public hearing the Planning Board shall take final action thereon. It may approve, modify and approve or disapprove said special permit, as provided by statute.

- a) Certificate of Approval: The action of the Board in respect to said special permit shall require a concurring vote of four (4) of the five (5) members of the Board in order to grant said permit. Only those members of the Board who were in attendance at the public hearing may vote on the application in question. The Board shall cause a detailed record to be made of its proceedings, showing the vote of each member or, if absent or failing to vote, indicating such fact, and setting forth clearly the reason or reasons for its decision and for its other official actions, copies of which shall be filed in the Office of the Town Clerk.

- b) The period within which final action shall be taken may be extended for a defined period by mutual written consent of the Board and the applicant to be filed with the Town Clerk. In the event that the Board determines that the plans and evidence included with the application or presented to it at the public hearing are inadequate to permit the Board to make a finding and determination, instead of denying the application, it may (at its discretion) adjourn the hearing to a later date to permit the applicant to submit additional information and further evidence to the Board.
- c) The Board shall file a copy of its decision with the Town Clerk and send by certified mail a copy of its decision to the applicant. The Board shall send a notice of its decision to the property owner if other than the applicant, to parties in interest and to those who have requested such notice at the public hearing.
- d) The applicant shall be responsible for recording the decision with the Deed to the property, and shall submit to the Board evidence of recording prior to issuance of a Building Permit or the start of any work. The permit is not effective unless recorded with the Middlesex South District Registry of Deeds, Cambridge Massachusetts.

3. Subsequent Planning Board Action

Prior to notification to the Building Inspector that a building permit may be issued for any stage or phase of an ISD, the Planning Board shall first determine compliance with the following requirements:

- a) The applicant has submitted to the Planning Board detailed plans showing the locations, designs and layouts of the roads, buildings, driveways and accessory structures included in such stage or phase.
- b) The Planning Board has determined that the detailed plans are in substantial conformity with the conceptual plans approved in the special permit.
- c) The applicant has provided security by covenant or by bond or other security satisfactory to the Board in form and amount, securing construction and installation of driveways, utilities and related services. The applicant may elect either covenant or bond; however, the use of any other form of security is entirely within the Planning Board's discretion.
- d) Recorded copies of all legal documents, including the Plan, Planning Board decision, covenant, Master Deed, Condominium Association documents, deed restrictions and easements have been submitted to the Planning Board.

- e) A Marketing Plan, satisfactory to the Board has been submitted complying with the purposes of Section III.F of these regulations.
- f) Less than two years has expired since the grant of the Special Permit or grant of a building permit that has previously been granted for said site.

4. Withdrawal of Petition

Any application for a permit submitted hereunder may be withdrawn without prejudice by notice in writing to the Board prior to the first publication of notice of a public hearing. Withdrawal of any application thereafter requires Board approval.

5. Limitation on Approval or Extension

- a) In the case where an application or a permit is granted by the Planning Board, all other permits for the execution of the work shall be obtained and substantial use thereof shall be commenced, except for good cause, or construction begun, except for good cause, within two years from the date of filing of the Board's decision in the Office of the Town Clerk.
- b) The granting of a permit constitutes approval only under the pertinent sections of the Town of Sudbury Zoning Bylaw. Other permits or approvals required by the Bylaw and other governmental boards, agencies or bodies having jurisdiction, such as the Board of Health, Sudbury Water District, and Conservation Commission, shall not be assumed or implied. The Board may condition, as appropriate, any permit hereunder on compliance with the requirements of these other governmental bodies prior to the start of any work on the site, the issuance of a Building Permit or any other appropriate step in the development process.

6. Repetitive Petition

Pursuant to M.G.L. Chapter 40, Section 16, no application which has been unfavorably and finally acted upon by the Board shall be acted favorably upon within two years after the date of final unfavorable action unless: 1) the Board finds by a two-thirds vote of specific and material changes in the conditions upon which the previous unfavorable action was based and describes such changes in the records of its proceeding; and 2) all but one member of the Board consents to the consideration of the matter. Notice to parties in interest shall be given of the time and place of the proceeding at which the questions on consent will be considered.

SECTION V. PERMITS FOR USE AND CONSTRUCTION

A. PRIOR TO CONSTRUCTION COMMENCEMENT

Prior to initiation of construction, and prior to any site work including clearing of vegetation, grading or earth removal, except that which is necessary for testing for wastewater disposal, the applicant shall be required to provide the Planning Board with the following:

1. Construction Schedule

The applicant shall submit a schedule of the projected work by major categories of work to the Planning Board for review and approval four (4) weeks prior to the start of construction. The schedule shall be by calendar weeks and address each category in Section VI, Design and Construction Standards. The schedule shall be adjusted periodically to reflect the actual work progress and related modifications to the schedule.

2. Performance Guarantee

Construction and installation of roadways, drainage, water supply, wastewater disposal, landscaping, utilities and other infrastructure associated with the development shall be secured by one, or in part by one and part by the other, of the following methods which may from time to time be varied by the applicant with the written consent of the Board. Said security shall be posted and approved by the Planning Board prior to any construction, installation or sale of lots.

a) Approval with Covenant: The applicant shall file a duly executed covenant which provides that no unit in an ISD may be sold until the ways and municipal services necessary to adequately serve such unit have been constructed and installed. Such covenant shall be approved as to form and manner of execution by the Planning Board and shall be recorded in the Registry of Deeds by the owner of record and shall run with the land.

b) Approval with Bonds or Surety: The applicant shall either file a duly executed surety company performance bond on such form as the Planning Board may approve, or a cash deposit in the form of a certified check from an established bank or lending institution in an amount determined by the Board to be sufficient to cover the cost of all the improvements specified in Section VI hereof, or other form of surety acceptable to the Planning Board.

B. RELEASE OF COVENANT

Upon completion of the work, or segments thereof servicing units in an ISD, or upon bonding of work remaining to be done, the Planning Board shall release units as appropriate from the Covenant.

C. REDUCTION OF BOND OR SURETY

The penal sum of any required bond, or the amount of any deposit held hereunder may, from time to time, be reduced by the Board and the obligations of the parties thereto released by said Board in whole or in part. However, in no case shall the minimum deposit or bond amount be reduced to less than \$10,000.00 until completion of all improvements and receipt of an “as-built” plan by the Town.

D. EVIDENCE OF SATISFACTORY PERFORMANCE

Before the Board will release the interest of the Town in a performance bond or deposit, or issue a release of covenant in the case where no bond is outstanding, the applicant shall file with the Board the following:

1. An “as-built” plan by a Registered Professional Engineer or Registered Land Surveyor indicating all streets, walkways, storm drains, water mains, fire alarm system, gas mains and underground utilities, and their appurtenances have been constructed in accordance with the Plans as approved. Where variations of the approved lines, grades and/or locations have been authorized by the Board or the Planning Board Agent in the course of construction of the improvements, said variations shall be depicted upon the certified plan.
2. Written evidence from the Director of Public Works that the streets, signs, markers, bounds, monuments and drainage conform to the regulations in accordance with the approved Plan.
3. Written evidence from the Sudbury Water District that the mains and hydrants conform to the District specifications and the Board’s regulations in accordance with the approved Plan.
4. Written evidence from the Board of Health that the system for wastewater disposal conforms to the Rules and Regulations of that Board and is in accordance with the approved Plan.
5. Written evidence from the Fire Chief that the Plan conforms to the requirements, standards and specifications of that department.

SECTION VI. DESIGN AND CONSTRUCTION STANDARDS

A. ROADWAYS

All provisions of the Planning Board Rules and Regulations Governing the Subdivision of Land, Sections V and VI, as the same may be amended from time to time, with respect to roads, driveways, parking spaces, utility services, drainage, lighting, signage, easements, shade trees, walkways, fire protection, water supply and other aspects of development construction shall be applicable to similar features in an ISD, provided that the Planning Board may waive or modify the same to meet the site conditions and design requirements of an ISD. In recognition of the resident age qualifications applicable to ISDs and the goal of preserving rural environmental amenities, it is generally anticipated that the Planning Board will approve reduced roadway pavement widths, elimination of curbs, and convenient access to dwelling units and communal and recreational facilities. However, roadways which have been constructed with waivers to the typical cross-section may not be recommended to be accepted as Public Ways by the Planning Board.

B. WASTEWATER DISPOSAL

In every ISD wastewater disposal shall comply with the requirements of the Sudbury Board of Health, the Sudbury Water Resources and Wastewater Bylaws, and applicable Department of Environmental Protection regulations. Such approval shall be required prior to final approval of any phase of an ISD.

C. WATER

All ISDs shall be provided with public water. No construction for any dwelling unit shall commence until the property comprising the ISD has been included within the jurisdictional boundaries of the Sudbury Water District, and water supply equipment has been installed pursuant to the regulations of that agency.

D. OPEN SPACE MANAGEMENT

1. Preservation of Natural Features

The Planning Board shall require that the applicant make every reasonable effort consistent with sound planning to preserve natural and historical features of special interest, including hill tops, cliffs, large trees, water bodies, biological habitats of special interest, historically significant regions, views and scenic points and similar community assets, which, if preserved, will add attractiveness and value to the development. Disturbance to existing vegetation and topography shall be minimized by appropriate design of the development and relating proposed buildings harmoniously to the terrain.

The Board strongly encourages applicants to investigate and make use of conservation grants and easements, particularly in environmentally sensitive areas.

2. Ownership and Use of Open Space

- a. The open space in an ISD shall be used for conservation, agriculture, passive recreation or park purposes and shall be maintained and groomed by the owner or its successor in interest in a manner appropriate for such use. The common land shall be in one or more parcels of a size, shape and location appropriate for its intended use as determined by the Planning Board. Provision shall be made so that the common land shall be accessible to the units in the development, and if granted to the Town, accessible by the general public by means of at least one 20 foot wide access easement leading from a public or private way. Such means of access shall be identified on the development plan submitted with the special permit application.
- b. The ownership of open space shall either be conveyed to the Town of Sudbury and accepted by it for open space, conservation, agriculture, outdoor recreation or park use, or be conveyed to a non-profit organization, the principal purpose of which is the conservation of open space, or be conveyed to a corporation or trust, or other entity, owned or to be owned by the owners of units within the development. In all cases of ownership, a perpetual restriction of the type described in M.G.L Chapter 184, section 31-32 (including future amendments thereto and corresponding provisions of future laws) running to or enforceable by the Town shall be recorded for all open space. Such restriction shall provide that the common land shall be retained in perpetuity for one or more of the following uses: conservation, agriculture, outdoor recreation or park purposes. Such restriction shall be in such form and substance as the Planning Board shall prescribe and may contain such additional restrictions on development and use of the open space as the Planning Board may deem appropriate.

E. LANDSCAPING STANDARDS

A landscape plan shall be submitted as part of any ISD. Said plan shall indicate areas proposed for retention of natural vegetation, including individual trees to remain within the development, and landscaped areas. Any additional screening required within the buffer shall be shown on the landscape plan. Type, size, and quantity of species shall be indicated. The Planning Board may utilize the skills of the Design Review Board and the

Permanent Landscape Committee to review the landscape plan for its appropriateness to a particular site.

Off-street parking, garbage disposal areas and utility transformers shall be shielded from view with vegetative plantings.

F. BUILDING DESIGN AND CONSTRUCTION

1. Architectural review by the Design Review Board shall be required for all buildings to be constructed in an ISD. Construction materials, color samples, exterior renderings and other information necessary to review the external appearance of units in an ISD shall be submitted to the Design Review Board. Architectural design shall incorporate mechanisms to minimize the scale and mass of buildings, blend the buildings in with the natural environment, assure privacy and reflect the character of the community in appearance. A written recommendation shall be made to the Planning Board prior to final approval for construction of any units.
2. Building length shall be minimized and shall not exceed 200 feet in length along its longest side without the permission of the Planning Board.

G. STREET AND BUILDING NUMBERS

Street names shall be approved by the Fire Chief prior to final approval of an ISD. House numbers shall be issued by the Town Engineer prior to approval of building permits.

H. UNDERGROUND UTILITIES

All utilities in an ISD shall be installed underground in accordance with the rules and regulations governing subdivisions.

I. ENTRANCE SIGNS, MONUMENTS AND STRUCTURES

1. Street signs of a type approved by the Director of Public Works shall be erected at all street intersections prior to the issuance by the Building Inspector of a building permit for any unit on that street. Such signs shall bear the names of the streets as shown on the approved Plan.
2. Development signs, decorative monuments, gate houses or other visual displays within 25 feet of a public right-of-way shall be shown on the Definitive Development Plan and shall require approval from the Planning Board during application review.

J. INSPECTION

Inspection of an ISD with respect to approval, construction, administration and maintenance may be conducted by the Planning Board agent, or as appropriate, by the Board of Health agent or the Building Inspector.

SECTION VII. ENFORCEMENT

A. PROJECT MAINTENANCE

In every ISD there shall be an organization of the owners of the dwelling units established pursuant to M.G.L. Chapter 183A, or equivalent legal entity, which shall be responsible for the maintenance and repair of roads and driveways, snow plowing, wastewater disposal, landscape maintenance, trash removal, utility services and maintenance and repair of other common elements and facilities serving the residents.

The bylaws of the organization shall prohibit the dissolution of the organization without adequate replacement, or changes to any provisions required by the Town of Sudbury in any permit issued for an ISD development, or changes to any provisions or requirements of the Zoning Bylaw and these rules and regulations, without the written consent of the Planning Board of the Town of Sudbury.

B. AGE RESTRICTION/OCCUPANCY

All dwelling units in an ISD must be owned and occupied by households with at least one owner-occupant aged 55 or over. The owner-occupant shall reside in the dwelling unit, and shall not vacate the premises and rent or lease to an unauthorized occupant without express written permission of the development organization and the Planning Board. There shall be no further limitation on the size or membership of the household provided the qualifying owner-occupant resides in the unit.

The organization of homeowners established for the development shall annually report to the Planning Board on the residency of all occupied units, including the names and ages of owners and occupants, and any other information necessary to enforce the conditions of approval.

C. PRICE RESTRICTIONS

Units developed under this Bylaw shall be sold and resold at no more than 2 times the cost for the sale of 2 bedroom detached or attached homes, whichever is applicable, under the Department of Housing and Community Development guidelines for the Local Initiative Program, or other state or federal affordable housing program that determines

purchase price for housing units in the Boston area (plus 25%). Condominium fees are excluded in the cost per unit calculation.

For example: If the Local Initiative Program sale price for a unit is currently \$150,000, the Incentive Senior Development sale price is calculated as follows:

$\$150,000 \times 2 = \$300,000$
 $\$300,000 \times .25 = \$75,000$
ISD price = \$375,000

Original purchase and resale prices shall be permanently restricted, to the extent legally permissible, to ensure long-term affordability. Sale and resale provisions shall be contained in applicable deed restrictions, covenants, contractual agreements such as limited equity provisions, condominium association Bylaws and/or other mechanisms to ensure compliance. Such restrictions shall not be permitted to be altered without consent of the Town of Sudbury. Annual reporting to the Planning Board is required for all units sold or resold.

D. EXEMPTION PERIOD AND CRITERIA

In the event of the death of the qualifying owner/occupant of a dwelling unit, or foreclosure or involuntary transfer of a unit in a SRC, or in the event that the qualifying owner/occupant is admitted to an assisted living facility, or nursing home, or other long term residential/hospital care facility in which it would not be usual or customary for said owner/occupant to return to a fully independent residential lifestyle or in the event of any other substantial hardship as approved by the Planning Board, a two year exemption shall be allowed for the transfer of the unit to another eligible household. During this two year period, household members who resided in the unit prior to the death of the qualifying owner/occupant, or prior to the qualifying owner/occupant's admission to an assisted living facility, or nursing home, or other long term residential/hospital care facility in which it would not be usual or customary for said owner/occupant to return to a fully independent residential lifestyle or in the event of any other substantial hardship as approved by the Planning Board, may remain in the unit. Persons who are not qualified occupants may not move into the unit except as herein provided. Surviving spouses may remain indefinitely in a unit upon the death of a qualifying owner/occupant, or in the event that the qualifying owner/occupant is admitted to an assisted living facility, or nursing home, or other long term residential/hospital care facility in which it would not be usual or customary for said owner/occupant to return to a fully independent residential lifestyle or in the event of any other substantial hardship as approved by the Planning Board, regardless of age. Notwithstanding the above restriction, during said exemption period, in the case of the death of the qualifying owner/occupant, or prior to the qualifying owner/occupant's admission to an assisted living facility, or nursing home, or other long term residential/hospital care facility in which it would not be usual or customary for said owner/occupant to return to a fully independent residential lifestyle or in the event of any other substantial hardship as approved by the Planning Board, said

owner/occupant and his/her representatives shall be permitted to lease the premises to a third party.

E. ENFORCEMENT OF REGULATIONS

Any homeowner or other occupant of a unit in an ISD who does not abide by the regulations set forth herein, or the conditions set forth in the approval document for the development, and which causes the Town of Sudbury to enforce these regulations in a court of legal jurisdiction shall be liable for the costs to uphold the regulations, including but not limited to attorney fees. This regulation shall be incorporated into the condominium association Master Deed.

TABLE OF CONTENTS

SECTION I. AUTHORITY	Page
A. Authority	1
B. Purpose	1
C. Application	1
SECTION II. TERMS/FORMS/FEEES	
A. Terms	1
B. Forms	2
C. Fees	2
SECTION III. ADMINISTRATION	
A. Special Permit Findings	4
B. Compliance with the Zoning Bylaw	4
C. Waiver of Regulations	4
D. Modifications to Approved Developments	4
E. Title Certification	5
F. Marketing Plan/ Local Preference	5
G. Need for Additional Community Services	5
H. Severability/Amendment	5
SECTION IV. PROCEDURE FOR ISD APPROVAL	
A. Preliminary Development Plan	6
B. Definitive Development Plan	8
C. Review and Action by the Planning Board	10
SECTION V. PERMITS FOR USE AND CONSTRUCTION	
A. Prior to Construction Commencement	14
B. Release of Covenant	15
C. Reduction of Bond or Surety	15
D. Evidence of Satisfactory Performance	15
SECTION VI. DESIGN AND CONSTRUCTION STANDARDS	
A. Roadways	16
B. Wastewater Disposal	16
C. Water	16
D. Open Space Management	16
E. Landscaping Standards	17
F. Building Design and Construction	18
G. Street and Building Numbers	18
H. Underground Utilities	18
I. Entrance Signs, Monuments and Structures	18
J. Inspection	19

SECTION VII.ENFORCEMENT

A.	Project Maintenance	19
B.	Age Restriction/Occupancy	19
C.	Price Restrictions	19
D.	Exemption Period and Criteria	20
E.	Enforcement of Regulations	21

TOWN OF SUDBURY

Massachusetts

RULES AND REGULATIONS

FOR

INCENTIVE SENIOR DEVELOPMENTS

**Adopted by the Sudbury Planning Board
June 8, 2005**