

## 4700B. MELONE SMART GROWTH OVERLAY DISTRICT

### A. PURPOSE

The purpose of this Section 4700B is to establish the Melone Smart Growth Overlay District (SGOD), to encourage smart growth in accordance with the purposes of G.L. c. 40R and to support development that meets the following objectives:

1. To provide for higher-density residential development in an area that is well suited for multifamily housing.
2. To provide for more types of housing choices in Sudbury, including affordable housing and multifamily units that meet community housing needs in a manner that advances the goals of the Sudbury Housing Production Plan.
3. To ensure high-quality planning, architecture and landscape design that enhances the distinct visual character and identity of Sudbury.
4. To promote best practices in Planning, sustainability, and improved transportation infrastructure.

### B. DEFINITIONS

As used in this Section 4700B, the following terms shall have the meanings set forth below provided that that, to the extent that any material conflict should arise between the definitions applicable to the same or similar terms that are directly or indirectly set forth in Section B below or elsewhere in Section 4700B and the corresponding terms in the Governing Laws, the terms of the Governing Laws shall govern unless DHCD has, and separately and expressly exercises, the authority to determine otherwise.

**ACCESSORY USE** – A use subordinate to a Principal Use in the District and serving a purpose customarily incidental to the Principal Use, and which does not, in effect, constitute conversion of the Principal Use of the Development Lot, site or structure to a use not otherwise permitted in the District.

**AFFORDABLE UNIT** – An Affordable Rental Unit or an Affordable Homeownership Unit that is affordable to and occupied by an Eligible Household and is approved by the Department of Housing and Community Development for inclusion in the Town of Sudbury’s Chapter 40B Subsidized Housing Inventory.

**AFFORDABLE HOUSING RESTRICTION** – A deed restriction of one or more Affordable Units, in perpetuity or the maximum period allowed by law, meeting statutory requirements in G.L. c. 184 Section 31 and the requirements of Subsection F of this section.

**AFFORDABLE RENTAL UNIT** – A Dwelling Unit required to be rented to an Eligible Household in accordance with the requirements of Subsection F of this section.

**AFFORDABLE HOMEOWNERSHIP UNIT** – A Dwelling Unit required to be sold to an Eligible Household in accordance with the requirements of Subsection F of this section.

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

**APPLICATION** – A petition for Plan Approval filed with the Approving Authority by an Applicant and inclusive of all required documentation as specified in administrative rules adopted pursuant to I. PLAN REVIEW.

**APPROVING AUTHORITY or PLAN APPROVAL AUTHORITY (PAA)** – The Planning Board of the Town of Sudbury acting as the authority designated to review Projects and issue approvals under this Section 4700B.

**AS-OF-RIGHT DEVELOPMENT** – A Development Project allowable under this section without recourse to a special permit, variance, zoning amendment, or other form of zoning relief. A Development Project that is subject to the Plan Review requirement of this section shall be considered an As-of-Right Development.

**DEPARTMENT or DHCD** – The Massachusetts Department of Housing and Community Development or any successor agency.

**DESIGN AND PERFORMANCE STANDARDS or DESIGN STANDARDS** – Provisions of Subsection M of this section made applicable to Projects within the District that are subject to the Plan Approval process and comply with the limitations established for Design Standards in the statute and regulations.

**DEVELOPMENT PROJECT** – A development comprising any permitted uses provided for hereunder undertaken under this section. A Development Project shall be identified on a Plan which is submitted to the Approving Authority for Plan Review.

**DISTRICT** – The Melone Smart Growth Overlay District, adopted pursuant to G.L. c. 40R in accordance with the procedures for zoning adoption and amendment under G.L. c. 40A and approved by the Department of Housing and Community Development under G.L. c. 40R and 760 CMR 59.00.

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

**ELIGIBLE HOUSEHOLD** – An individual or household whose annual income is at or below eighty percent (80%) of the area-wide median income as determined by the United States Department of Housing and Urban Development (“HUD”), adjusted for household size, with income computed using HUD's rules for attribution of income to assets.

GOVERNING LAWS - G.L. Chapter 40R and 760 CMR 59.00.

MONITORING AGENT – The entity designated to monitor and enforce the Affordable Housing Restriction.

MULTI-FAMILY DWELLING UNITS – A residential building containing four or more Dwelling Units.

PAA REGULATIONS – the rules and regulations of the PAA adopted pursuant to Section I of this Section 4700B.

PROJECT or DEVELOPMENT PROJECT – A development comprising any permitted uses provided for under this Section 4700B. A Project shall be identified on a Plan which is submitted to the Approving Authority for Plan Review.

PLAN APPROVAL – The Approving Authority’s authorization for a proposed Development Project based on a finding of compliance with this section of the Bylaw and Design and Performance Standards after the conduct of Plan Review.

UNDERLYING ZONING – The zoning requirements adopted pursuant to G.L. 40A that otherwise apply to the geographic area in which the District is located.

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

UNRESTRICTED UNIT – A Dwelling Unit that is not restricted as to rent, price, or eligibility of occupants.

ZONING BYLAW or BYLAW – The Zoning Bylaw of the Town of Sudbury.

#### C. ESTABLISHMENT AND DELINEATION OF DISTRICT

The Melone Smart Growth Overlay District is an overlay district having a land area of approximately 5.95 acres in size that is superimposed over the underlying district. The boundaries of the District are shown on a map entitled “Melone Smart Growth Overlay District,” dated November 13, 2018, on file with the Town Clerk, said map hereby made a part of the Zoning Bylaw and adopted as an amendment to the Sudbury Zoning Map.

#### D. AUTHORITY AND APPLICABILITY

1. The District is established pursuant to the authority of G.L. c. 40R and 760 CMR 59.00. The District is superimposed on all underlying zoning districts. The regulations for use, dimension, and all other provisions of the Zoning Bylaw governing the underlying zoning district(s) shall remain in full force, except for those Projects undergoing development

pursuant to this Section 4700B. At the option of the Applicant, development of land within the District may be undertaken by means of Plan Approval under this Section 4700B, or by complying with all applicable Underlying Zoning controls in the Zoning Bylaw. Notwithstanding anything to the contrary in the Bylaw, Development Projects proceeding under this Section 4700B shall be governed solely by the provisions of this Section 4700B and the standards and/or procedures of the Underlying Zoning shall not apply. Development Projects proposed pursuant to this Section 4700B shall not be subject to any other provisions of the Zoning Bylaw, 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.

2. The provisions of this Section 4700B shall be administered by the Building Inspector, 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 4700B shall be governed by the applicable provisions of G. L. Chapter 40A.

#### E. PERMITTED USES

The following Principal Uses, either alone or in any combination thereof, shall be permitted upon Plan Approval pursuant to the provisions of this Section 4700B. All uses not expressly allowed are prohibited.

1. Multifamily residential use(s);
2. Parking accessory to any permitted uses, including surface, garage-under, and structured parking (e.g., parking garages);
3. Commercial Uses accessory to the Multifamily residential use(s) that in aggregate do not exceed 10% of the Gross Floor Area of a Project, including
  - a. Business or Professional Office with fewer than five employees;
  - b. Child care facility;
  - c. Personal Service Establishment – under 1,000 square feet;
  - d. Restaurant – under 1,000 square feet;
  - e. Retail Stores and Services not elsewhere set forth – under 1,000 square feet.
4. Other Accessory Uses customarily incidental to any of the above permitted uses.

#### F. HOUSING AND HOUSING AFFORDABILITY

1. Number of Affordable Units. At least 25% of all Dwelling Units constructed in a Development Project and the District shall be maintained as Affordable Units.

2. Fractional Units. When the application of the percentages specified above results in a number that includes a fraction, the fraction shall be rounded up to the next whole number.
3. Affordable Units shall comply with the following requirements:
  - a. The monthly rent payment for an Affordable Rental Unit, including applicable utility allowances, shall not exceed 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 another affordable housing program methodology for calculating rent limits as approved by DHCD shall apply;
  - b. For an Affordable Homeownership Unit the monthly housing payment, including mortgage principal and interest, private mortgage insurance, property taxes, condominium and/or homeowner's association fees, insurance, and parking (to the extent such parking is more generally included in the housing cost for the unrestricted units), shall not exceed 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 another affordable housing program methodology for calculating rent limits as approved by DHCD shall apply; and
  - c. Affordable Units required to be offered for rent or sale shall be rented or sold to and occupied only by Eligible Households pursuant to an approved Affirmative Fair Housing Marketing Plan.
4. Design and construction.
  - a. Design. As approved by DHCD, Affordable Units must be equitably integrated and proportionately dispersed throughout a Development Project, across all residential buildings, floors and distinct unit types in accordance with the affordable housing restriction and marketing and tenant selection plan. Affordable Units must be comparable in initial construction quality and exterior design to the Unrestricted Units. Unless expressly required otherwise under one or more applicable state or federal housing subsidy programs, the bedroom-per-unit average for the Affordable Units must be equal to or greater than the bedroom-per-unit average for the Unrestricted Units.
  - b. Timing. All Affordable Units must be constructed and occupied not later than concurrently with construction and occupancy of Unrestricted Units and, for Development Projects that are constructed in phases, Affordable Units must be constructed and occupied in proportion to the number of units in each phase of the Development Project.

5. Affordable housing restriction. Each Affordable Unit shall be subject to an Affordable Housing Restriction which is recorded with the Middlesex County Registry of Deeds. The Affordable Housing Restriction shall meet the requirements of and provide for implementation of this Section 4700B and shall be approved by DHCD with regard to conformance with G.L. c. 40R and 760 CMR 59.00. Each such restriction shall contain the following:
  - a. Description of the Development Project, including whether the Affordable Unit will be rented or owner-occupied;
  - b. 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 Development Project containing Dwelling Units or portion of a Development Project containing Dwelling Units which are rental. Such restriction shall apply individually to the specifically identified Affordable Homeownership Unit and shall apply to a percentage of rental units of a rental Development Project containing Dwelling Units or the rental portion of a Development Project containing Dwelling Units with the initially designated Affordable Rental Units identified in, and able to float subject to specific approval by DHCD in accordance with, the corresponding Affirmative Fair Housing Marketing Plan (AFHMP) and DHCD's AFHMP guidelines.
  - c. The term of the Affordable Housing Restriction shall be in perpetuity or the maximum period allowed by law but shall be no less than thirty (30) years.
  - d. The name and address of a Monitoring Agent with a designation of its power to monitor and enforce the Affordable Housing Restriction;
  - e. Reference to an affirmative fair housing marketing and resident selection plan, to which the Affordable Unit is subject, and which includes an affirmative fair housing marketing program, including public notice and a fair resident selection process. Such plan shall be consistent with DHCD guidance and approved by the Town and DHCD. Consistent with DHCD guidance, such plan shall include a preference based on need for the number of bedrooms in a unit and a preference based on need for the accessibility features of a unit where applicable, and may only provide for additional preferences in resident selection to the extent such preferences are also consistent with applicable law and approved by DHCD.
  - f. 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;

- g. Reference to the formula pursuant to which rent of a rental unit or the maximum resale price of a homeownership unit will be set;
- h. A requirement that only an Eligible Household may reside in an Affordable Unit and that notice of any lease or sublease of any Affordable Unit to another Eligible Household shall be given to the Monitoring Agent;
- i. Provision for effective monitoring and enforcement of the terms and provisions of the Affordable Housing Restriction by the Monitoring Agent;
- j. Provision that the restriction on an Affordable Homeownership Unit shall run in favor of the Town of Sudbury, in a form approved by town counsel, and shall limit initial sale and re-sale to and occupancy by an Eligible Household;
- k. Provision that the restriction on Affordable Rental Units in a rental Project or rental portion of a Development Project containing Dwelling Units shall run with the rental Development Project containing Dwelling Units or rental portion of a Development Project containing Dwelling Units and shall run in favor of the Town of Sudbury, in a form approved by municipal counsel, and shall limit rental and occupancy to an Eligible Household;
- l. Provision that the owner(s) or manager(s) of Affordable Rental Unit(s) shall file an annual report to the Monitoring Agent and the Town, in a form specified by such agent, certifying compliance with the provisions of this Bylaw and containing such other information as may be reasonably requested in order to ensure affordability;
- m. A requirement that residents in Affordable Units provide such information as the Monitoring Agent may reasonably request in order to ensure affordability; and
- n. Designation of the priority of the Affordable Housing Restriction over other mortgages and restrictions.

## 6. Administration.

- a. Monitoring Agent. A Monitoring Agent shall be designated by the Town Manager. The Monitoring Agent shall ensure the following:
  - i. Prices of Affordable Homeownership Units are properly computed; rental amounts of Affordable Rental Units are properly computed;
  - ii. Income eligibility of households applying for and living in Affordable Units is properly and reliably determined, and that tenants of the Affordable Rental

Units continue to be eligible, and that annual income recertification is completed, with results sent to the Town and DHCD

- iii. The housing marketing and resident selection plan conforms to all requirements and is properly administered;
  - iv. 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
  - v. Affordable Housing Restrictions meeting the requirements of this section are recorded with the Middlesex County Registry of Deeds.
- b. Housing Marketing and Selection Plan. The housing marketing and selection plan may make provision for payment by the Applicant of reasonable costs to the Monitoring Agent to develop, advertise, and maintain the list of Eligible Households and to monitor and enforce compliance with affordability requirements.
- c. Age Restrictions. Age-restricted Projects restricting occupancy to households with one or more elderly individuals cannot imposed upon the Applicant and are further prohibited within the Melone SGOD without the express written approval of DHCD.
- d. Failure of the Monitoring Agent. In the case where the Monitoring Agent cannot adequately carry out its administrative duties, upon certification of this fact by the Board of Selectmen or by DHCD, the administrative duties shall devolve to and thereafter be administered by a qualified housing entity designated by the Board of Selectmen or, in the absence of such designation, by an entity designated by DHCD.

#### G. DIMENSIONAL AND OTHER REQUIREMENTS

1. Buildings and Development Lots within the District shall be subject to the dimensional and other requirements set forth in this Subsection G.
2. Density. Notwithstanding the limit on Maximum Residential Development in Paragraph 6, below, Multi-Family Dwelling Units shall be permitted As-of-Right at a density of at least twenty (20) Dwelling Units per acre of Developable Land.
3. Minimum area and setbacks. There shall be no minimum Development Lot area or setback requirements within the District except for the District Buffer described herein.
4. Height. 3 stories; 45 feet (or 50 feet, in the case of pitched roofs); provided that the Planning Board may approve a building height of up to 4 stories or 60 feet where it



determines, based upon topography and the provision of adequate visual buffers, the visual impact from any adjacent public way is adequately minimized by the applicant.

5. Number of buildings on a Development Lot. In the District, more than one principal building may be erected on a Development Lot.
6. Maximum Residential Development. To the extent consistent with the Governing Laws, the aggregate number of Dwelling Units that may be permitted within the District pursuant to this Section 4700B shall be 101.
7. Structured parking. Structured parking allowable pursuant to Subsection E shall be governed by this Section 4700B and by Design and Performance Standards as adopted pursuant to Subsection N.

#### H. PARKING REQUIREMENTS

1. Parking shall be provided within the District in order to meet the following minimum parking space requirements, subject to the provisions of this Subsection H.

##### Multifamily residential

1-bedroom units	1 per unit
2-bedroom units	2 per unit
3+-bedroom units	2 per unit

When application of the requirements set forth above results in a number that includes a fraction, the fraction shall be rounded up to the next whole number. The maximum number of parking spaces provided in a Development Project shall not exceed an average of 1.75 per unit.

2. Modification in parking requirements. Notwithstanding anything to the contrary herein , any minimum required or maximum permitted amount of parking may be modified by the Approving Authority through the Plan Approval process, if the Applicant can demonstrate that the modified amount of parking will not cause excessive congestion, endanger public safety, or that a modified amount of parking will provide positive environmental or other benefits, taking into consideration:
  - a. The availability of public or commercial parking facilities in the vicinity of the use being served;
  - b. Shared use of parking spaces serving other uses having peak user demands at different times;

- c. Age or other occupancy restrictions which are likely to resulting a lower level of auto usage;
- d. Such other factors, including the availability of valet parking, shuttle service, or a transportation management plan as may be considered by the Approving Authority. Where such reduction is authorized, the Approving Authority may impose conditions of use or occupancy appropriate to such reductions.
- e. Parking shall be designed and constructed to comply with all applicable disability access requirements including, but not limited to, the Americans with Disabilities Act.

## I. PLAN APPROVAL

The Approving Authority shall adopt and file with the Town Clerk administrative rules (PAA Regulations) for Plan Approval Application submission requirements. Such administrative rules and any amendment thereto must be approved by DHCD before they become effective and applicable to Plan Approval Applications. The Plan Approval process encompasses the following:

1. Pre-Application Review. The Applicant is encouraged to participate in a pre-Application review at a regular meeting of the Approving Authority. The purpose of the pre-Application review is to minimize the Applicant's cost of engineering and other technical experts, and to obtain the advice and direction of the Approving Authority prior to filing the Application. At the pre-Application review, the Applicant shall outline the proposal and seek preliminary feedback from the Approving Authority, other municipal review entities, and members of the public. The Applicant is also encouraged to request a site visit by the Approving Authority and/or its designee in order to facilitate pre-Application review.
2. Application Procedures:
  - a. The Applicant shall file an original of the Application with the Town Clerk for certification of the date and time of filing. Said filing shall include any required forms provided by the Approving Authority. A copy of the Application, including the date and time of filing certified by the Town Clerk, as well as the required number of copies of the Application, shall be filed forthwith by the Applicant with the Approving Authority and Building Inspector. As part of any Application for Plan Approval for a Development Project, the Applicant must submit the following documents to the Approving Authority and, as applicable, the Monitoring Agent:
    - i. evidence that the Development Project complies with the cost and eligibility requirements of Subsection F.

- ii. Development Project plans that demonstrate compliance with the design and construction standards of Subsection F; and
- iii. a form of Affordable Housing Restriction that satisfies the requirements of Subsection F.

These documents in combination, to be submitted with an Application for Plan Approval, shall include details about construction related to the provision, within the development, of units that are accessible to the disabled and appropriate for diverse populations, including households with children, other households, individuals, households including individuals with disabilities, and the elderly.

- b. Upon receipt by the Approving Authority, Applications shall be distributed to the Building Inspector, Fire Chief, Police Chief, Health Department, Conservation Committee, the Town Manager, the Board of Selectmen, and the Department of Public Works. Any reports from these parties shall be submitted to the Approving Authority within thirty (30) days of filing of the Application; and
  - c. Within thirty (30) days of filing of an Application with the Approving Authority, the Approving Authority or its designee shall evaluate the proposal with regard to its completeness and shall submit an advisory report in writing to the Applicant certifying the completeness of the Application. The Approving Authority or its designee shall forward to the Applicant, with its report, copies of all recommendations received to date from other boards, commissions or departments.
3. Public Hearing. The Approving Authority shall hold a public hearing for which notice has been given as provided in G.L. c. 40A, Section 11, and review all Applications in accordance with G.L. Ch. 40R, Section 11, and 760 CMR 59.00.
4. Plan Approval decision.
- a. The Approving Authority shall make a decision on the Plan Approval Application, and shall file said decision with the Town Clerk, within 120 days of the date the Application was received by the Town Clerk. The time limit for public hearings and taking of action by the Approving Authority may be extended by written agreement between the Applicant and the Approving Authority. A copy of such agreement shall be filed with the Town Clerk;
  - b. Failure of the Approving Authority to take action within 120 days or extended time, if applicable, shall be deemed to be an approval of the Application;
  - c. An Applicant who seeks approval because of the Approving Authority's failure to act on an Application within 120 days or extended time, if applicable, must notify the Town Clerk in writing of such approval, within 14 days from the expiration of said time limit for a decision, and that a copy of that notice has been sent by the

Applicant to the parties in interest by mail and that each such notice specifies that appeals, if any, shall be made pursuant to G.L. c. 40R and shall be filed within 20 days after the date the Town Clerk received such written notice from the Applicant that the Approving Authority failed to act within the time prescribed;

- d. The Approving Authority's findings, including the basis of such findings, shall be stated in a written decision of approval, conditional approval or denial of the Application for Plan Approval. The written decision shall contain the name and address of the Applicant, identification of the land affected and its ownership, and reference by date and title to the plans that were the subject of the decision. The written decision shall certify that a copy of the decision has been filed with the Town Clerk and that all plans referred to in the decision are on file with the Approving Authority;
  - e. The decision of the Approving Authority, together with detailed reasons for it, shall be filed with the Town Clerk, the Planning Board, and the Building Inspector. A certified copy of the decision shall be mailed to the owner and to the Applicant, if other than the owner. A notice of the decision shall be sent to the parties in interest and to persons who requested a notice at the public hearing; and
  - f. Effective date. If 20 days have elapsed after the decision has been filed in the office of the Town Clerk without an appeal having been filed or if such appeal, having been filed, is dismissed or denied, the Town Clerk shall so certify on a copy of the decision. If the Application is approved by reason of the failure of the Approving Authority to timely act, the Town Clerk shall make such certification on a copy of the notice of Application. A copy of the decision or notice of Application shall be recorded with the title of the land in question in the Middlesex County Registry of Deeds, 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 responsibility and the cost of said recording and transmittal shall be borne by the owner of the land in question or the Applicant.
5. Criteria for approval. The Approving Authority shall approve the Development Project upon the following findings:
- a. The Applicant has submitted the required fees and information as set forth in applicable regulations; and
  - b. The proposed Development Project as described in the Application meets all of the requirements and standards set forth in this Section 4700B and applicable Design and Performance Standards.

For a Development Project subject to the Affordability requirements of Subsection F, compliance with condition (b) above shall include written confirmation by the Monitoring Agent that all requirements of that Section have been satisfied. Prior to the granting of 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 Town of Sudbury.

6. Criteria for conditional approval. The Approving Authority may impose conditions on a Development Project as necessary to ensure compliance with the District requirements of this Section 4700B and applicable Design and Performance Standards, or to mitigate any extraordinary adverse impacts of the Development Project on nearby properties, insofar as such conditions are compliant with the provisions of G.L. Ch. 40R and applicable regulations and do not Unduly Restrict opportunities for development.
7. Criteria for denial. The Approving Authority may deny an Application for Plan Approval pursuant to this Section 4700B of the Bylaw only if the Approving Authority finds one or more of the following:
  - a. The Development Project does not meet the requirements and standards set forth in this Section 4700B and applicable Design and Performance Standards, or that a requested waiver therefrom has not been granted; or
  - b. The Applicant failed to submit information and fees required by this Section 4700B and necessary for an adequate and timely review of the design of the Development Project or potential Development Project impacts.
8. Time limit. A project approval shall remain valid and shall run with the land indefinitely provided that construction has commenced within two years after the decision issues, which time shall be extended by the time required to adjudicate any appeal from such approval. Said time shall also be extended if the project proponent is actively pursuing other required permits for the project or if there is good cause for the failure to commence construction, or as may be provided in an approval for a multi-phase Development Project.
9. Appeals. Pursuant to G.L. c. 40R Section 11, any person aggrieved by a decision of the Approving Authority may appeal to the Superior Court, the Land Court, or other court of competent jurisdiction within 20 days after the Plan Approval decision has been filed in the office of the Town Clerk.

#### J. WAIVERS

With the exception of any provision other than F.1 (which must nevertheless be at least 20%) contained in Section F or Section I.2.a. or otherwise in conflict with the Governing Laws, the Approving Authority may waive dimensional and other requirements of this Section 4700B, 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 District, 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 4700B.

## K. PROJECT PHASING

The Approving Authority, as a condition of any Plan Approval, may allow a Development Project to be constructed in one or more phases for the purpose of coordinating its development with the construction of Planned Infrastructure (as that term is defined under 760 CMR 59.00), or that are required to mitigate any extraordinary adverse Project impacts on neighboring properties.

## L. CHANGE IN PLANS AFTER APPROVAL BY THE APPROVING AUTHORITY

1. **Minor Change.** After Plan Approval, an Applicant may apply to make minor changes in a Development Project involving minor utility or building orientation adjustments, or minor adjustments to parking or other site details that do not affect the overall build out 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 Approving Authority on redlined prints of the approved plan, reflecting the proposed change, and on application forms provided by the Approving Authority. The Approving Authority may authorize such changes at any regularly scheduled meeting, without the need to hold a public hearing. The Approving Authority shall set forth any decision to approve or deny such minor change by motion and written decision, and provide a copy to the Applicant for filing with the Town Clerk.
2. **Major Change.** Those changes deemed by the Approving Authority to constitute a major change in a Development 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 Approving Authority as a new Application for Plan Approval pursuant to this Section 4700B.

## M. DESIGN AND PERFORMANCE STANDARDS

1. The Plan Approval Authority may adopt, by simple majority vote, Design Standards which shall apply to development Projects subject to Plan Approval by the Plan Approval Authority. Such Design Standards shall not extend beyond the scope of the elements explicitly permitted under 760 CMR 59.04(1)(f). Design Standards shall be limited to the scale and proportions of buildings, the alignment, width, and grade of streets and sidewalks, the type and location of infrastructure, the location of building and garage entrances, off-street parking, the protection of significant natural site features, the location and design of on-site open spaces, exterior signs, and buffering in relation to adjacent properties.
2. **Purpose.** The Design Standards are adopted to ensure that the physical character of Projects within the SGOD:
  - a) Will be complementary to nearby buildings and structures;

- b) Will be consistent with the master plan for the Melone property or any other plan document adopted by the Town; and
  - c) Will provide for high-density, quality development consistent with the character of building types, streetscapes, and other community features traditionally found in densely settled areas of the Town or in the region of the Town.
3. DHCD approval. After adopting Design Standards, the Approval Authority shall submit Design Standards to DHCD for approval. Design Standards shall not take effect until approved by DHCD and filed with the Town Clerk. In submitting proposed Design Standards for DHCD approval, the Approval Authority shall also submit sufficient documentation clearly showing that the proposed Design Standards will not add unreasonable costs to development Projects or unreasonably impair the economic feasibility of a development Project. A letter from a developer, property owner, or other interested party indicating that the Design Standards will not add unreasonable costs or unreasonably impair the economic feasibility of a development Project shall not constitute sufficient documentation. At its discretion, DHCD may disapprove Design Standards if it finds that the Approval Authority has not adopted objective Design Standards or has not submitted such documentation.
  4. Plan Approval. An application for Plan Approval that has been submitted to the Town Clerk pursuant to this Section 4700B shall not be subject to Design Standards that have not been approved by DHCD and filed with the Town Clerk.

#### N. FAIR HOUSING REQUIREMENT

All Development Projects within the District shall comply with applicable federal, state and local fair housing laws.

#### O. ANNUAL UPDATE

On or before July 31 of each year, the Board of Selectmen shall file an Annual Update with information provided by the property owner to DHCD in a form to be prescribed by DHCD. The Annual Update shall contain all information required in 760 CMR 59.07, as may be amended from time to time, and additional information as may be required pursuant to G.L. c. 40S and accompanying regulations. The Town Clerk shall maintain a copy of all updates transmitted to DHCD pursuant to this Bylaw, with said copies to be made available upon request for public review.

#### P. NOTIFICATION OF ISSUANCE OF BUILDING PERMITS

Upon issuance of a residential building permit within the District, the Building Inspector of the Town of Sudbury shall cause to be filed an application to the DHCD, in a form to be prescribed by DHCD, for authorization of payment of a one-time density bonus payment for each residential building permit pursuant to G.L. 40R. The application shall contain all

information required in 760 CMR 59.00 and additional information as may be required pursuant to G.L. c. 40S and accompanying regulations. The Town Clerk shall maintain a copy of all such applications transmitted to DHCD pursuant to this Bylaw, with said copies to be made available upon request for public review.

**Q. DATE OF EFFECT**

The effective date of this Bylaw shall be the date on which such adoption is voted upon by Town Meeting pursuant to the requirements of G.L. c. 40A Section 5 and G.L. c. 40R; provided, however, that an Applicant may not proceed with construction pursuant to this Bylaw prior to the receipt of final approval of this Bylaw and accompanying Zoning Map by both the DHCD and the Office of the Massachusetts Attorney General.

**R. SEVERABILITY**

If any provision of this Section 4700B is found to be invalid by a court of competent jurisdiction, the remainder of Section 4700B shall not be affected but shall remain in full force. The invalidity of any provision of this Section 3700B shall not affect the validity of the remainder of Sudbury Zoning Bylaw.

