

9.4

9.5 PLANNED VILLAGE DEVELOPMENT DISTRICT (the "PVDD") (APRIL 30, 2007)

9.5.1 Purposes

The purposes of the PVDD are:

- (a) To implement the objectives of the Lynnfield Master Plan (2002), which identified the area within the PVDD for mixed-use development.
- (b) To promote mixed-use and economic development in a form that is safe, pedestrian friendly and meets the objectives of "smart growth" pursuant to Mass. Gen. Laws Ch. 40R.
- (c) To preserve significant open space for recreational use as identified in the Lynnfield Master Plan (2002).
- (d) To ensure high quality site planning, architecture and landscape design that enhances the distinct visual character and identity of Lynnfield and provides an environment with safety, convenience and appropriate amenities.
- (e) To provide for a diversified housing stock within Lynnfield, including affordable housing and housing types that meet the needs of the Town's population, all as identified in the Lynnfield Master Plan (2002) and the Lynnfield Affordable Housing Plan (2006).
- (f) To generate positive tax revenue, and to benefit from the financial incentives provided by Mass. Gen. Laws Ch. 40R, while providing the opportunity for new business growth and additional local jobs.

9.5.2 Authority and Applicability

The PVDD is established pursuant to the authority of Mass. Gen. Laws Ch. 40R and 760 CMR 59.00. At the option of the Applicant, development of land within the PVDD may be undertaken by means of a Site Plan Approval pursuant to the zoning controls set forth in this Section 9.5, or by complying with all applicable Underlying Zoning controls set forth in the Zoning Bylaw of the Town of Lynnfield. Notwithstanding anything to the contrary in the Zoning Bylaw, Development Projects proceeding under this Section 9.5 shall be governed solely by the provisions of this Section 9.5 and the standards and/or procedures of the Underlying Zoning shall not apply. Development Projects proposed pursuant to this Section 9.5 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.

9.5.3 Establishment and Delineation of PVDD and Sub-Districts

The PVDD is an overlay district that is superimposed over the underlying zoning district. Within the PVDD, there are two Sub-Districts identified as (1) Multi-Family Residential Sub-District, and (2) the Traditional Neighborhood Village Sub-District. The boundaries of the PVDD and the Sub-Districts are delineated as the “Planned Village Development District ‘PVDD’ and Sub-Districts” on the Zoning District Map of the Town of Lynnfield on file in the office of the Town Clerk, said map hereby made a part of the Zoning Bylaw.

9.5.4 Definitions

As used in this Section 9.5, the following terms shall have the meanings set forth below:

ADMINISTERING AGENCY – An organization designated by the Lynnfield Board of Selectmen, which may be the Lynnfield Housing Authority or other qualified housing entity, with the power to monitor and to enforce compliance with the provisions of this Bylaw related to Affordable Units, including but not limited to computation of rental and sales prices; income eligibility of households applying for Affordable Units; administration of an approved housing marketing and resident selection plan; and recording and enforcement of an Affordable Housing Restriction for each Affordable Unit in the PVDD.

AFFORDABLE UNIT - An Affordable Rental Unit or an Affordable Homeownership Unit that is affordable to and occupied by an Eligible Household.

AFFORDABLE HOUSING RESTRICTION – A deed restriction of an Affordable Homeownership Unit meeting statutory requirements in Mass. Gen. Laws Ch.184 § 31 and the requirements of Section 9.5.11 of this Bylaw.

AFFORDABLE RENTAL UNIT – A Dwelling Unit required to be rented to an Eligible Household in accordance with the requirements of Section 9.5.11 of this Bylaw.

AFFORDABLE HOMEOWNERSHIP UNIT – A Dwelling Unit required to be sold to an Eligible Household in accordance with the requirements of Section 9.5.11 of this Bylaw.

APPLICANT – A landowner or other petitioner who files a site plan for a Development Project subject to the provisions of this Bylaw.

APPLICATION – A petition for Site Plan Approval filed with the Approving Authority by an Applicant and inclusive of all required documentation as specified in administrative rules adopted pursuant to Section 9.5.12.

APPROVING AUTHORITY – The Planning Board of the Town of Lynnfield acting as the authority designated to review projects and issue approvals under this Section 9.5.

AS-OF-RIGHT DEVELOPMENT - A Development Project allowable under this Section 9.5 without recourse to a special permit, variance, zoning amendment, or other form of zoning relief. A Development Project that is subject to the Site Plan Review requirement of this Section 9.5 shall be considered an As-of-Right Development.

BASEMENT - The lowest floor level of a building which is either fully or partially below grade, whether or not fully enclosed.

CINEMA - A theater designed and constructed for the primary intended purpose of showing films or movies for a fee.

CONSERVATION USE - Any woodland, grassland, wetland, agricultural or horticultural use of land, any use of land for the construction and use of ponds or storm water management facilities.

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

DESIGN STANDARDS – The document entitled Lynnfield 40R Planned Village Development District Design Standards, as amended, approved by DHCD on April 19, 2007, pursuant to M.G.L. Chapter 40R, Section 10. The Design Standards are applicable to all Development Projects within the PVDD that are subject to Site Plan Review by the Approving Authority.

DEVELOPABLE LAND – All land within the PVDD that can be feasibly developed into Development Projects. Developable Land shall not include: the rights-of-way of existing public streets and ways; or areas that are: (1) protected wetland resources (including buffer zones) under federal, state, or local laws; (2) land located within the FP Flood Plain Zoning District in the Town of Lynnfield and subject to seasonal or periodic flooding; or (3) rare species habitat designated under federal or state law. The foregoing definition shall be for purposes of calculating density under Section 9.5.7.2 and shall not limit development activities in such excluded areas if otherwise allowed by applicable law.

DEVELOPMENT LOT – One or more lots which are designated as a Development Lot on a site plan for a development proposed within the PVDD and for which Site Plan Approval is required under the provisions of this Section 9.5. The lots comprising a Development Lot need not be in the same ownership. Where the Development Lot consists of more than a single lot, the lots, in combination, shall be treated as the Development Lot, may be contiguous or non-contiguous and shall be considered as one lot for the purpose of calculating parking requirements and Dwelling Units per acre. Any development undertaken on a Development Lot is subject to the Design Standards established under Section 9.5.9 of this Bylaw.

DEVELOPMENT PROJECT – A residential or commercial development undertaken under this Section 9.5. A Development Project shall be identified on the Site Plan which is submitted to the Approving Authority for Site Plan Review.

DWELLING UNIT — One (1) or more rooms with cooking, living, sanitary and sleeping facilities arranged for the use of one (1) or more persons living together as a single housekeeping unit. The following types of Dwelling Units are specifically defined:

MULTI-FAMILY DWELLING UNITS – A residential building containing four or more Dwelling Units designed for occupancy by the same number of families as the number of Dwelling Units; and

TWO-THREE FAMILY UNITS – A residential building containing two or three Dwelling Units and where the individual Dwelling Units are not located on separate lots.

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.

FAMILY – Any number of persons living and cooking together on the premises as a single housekeeping unit, as distinguished from a group occupying a boarding house, lodging house, or hotel.

GROSS FLOOR AREA – The floor area of space on all floors inclusive of heated basements, hallways, mechanical rooms, storage space and other miscellaneous space not exclusively occupied by a single tenant or occupant, measured from the exterior faces of exterior walls. Gross floor area does not include covered walkways, open roofed-over areas, porches, exterior terraces or steps, chimneys, roof overhangs, parking garages and unheated basements.

GROSS LEASABLE FLOOR AREA – The area of a building exclusive of hallways, mechanical rooms, storage space and other miscellaneous space not exclusively occupied by a single tenant or occupant.

HEIGHT – The distance between average finished grade adjacent to the building (exclusive of basements) and the ceiling of the upper-most heated space in the building in the case of flat roofs and, in the case of buildings with pitched roofs, at the point at which such ceiling intersects with the exterior portion of the building. The calculation of building height shall not apply to roof tanks and their supports, roof decks, ventilating, air conditioning and similar building service equipment, chimneys, railings, skylights and other similar features of buildings which are in no way designed or used for living purposes nor the portion of the pitched roof above the intersection of the ceiling of the upper-most heated space and the exterior of the building.

HOUSEHOLD INCOME, MEDIAN – The median income, adjusted for household size, as reported by the most recent information from, or calculated from regulations promulgated by, the United States Department of Housing and Urban Development (HUD).

INFRASTRUCTURE LETTERS - The letters issued on behalf of the Town in fulfillment of M.G.L. C. 40R, § 6(a)(11) and 760 CMR 59.04(1)(h) identifying infrastructure improvements to be made incident to the construction of one or more Development Projects in the Planned Village Development District.

LOT – A single tract of land held in common ownership throughout and defined by metes, bounds or lot lines in a deed or conveyance on a duly recorded plan.

OFFICE – A place for the regular performance of business transactions and services, generally intended for administrative, professional and clerical activities, including a medical or dental office or health clinic.

PLANNED VILLAGE DEVELOPMENT DISTRICT – An overlay zoning district adopted pursuant to Mass. Gen. Laws Ch. 40R, in accordance with the procedures for zoning adoption and amendment as set forth in Mass. Gen. Laws Ch. 40A and approved by the Department of Housing and Community Development pursuant to Mass. Gen. Laws Ch. 40R and 760 CMR 59.00.

RECREATIONAL ACCESSORY USE – A use subordinate to a Principal Residential Use on the same lot or in the same structure and serving a purpose customarily incidental to the Principal Residential Use, and which does not, in effect, constitute conversion of the Principal Use of the lot, site or structure to a use not otherwise permitted in the PVDD. Recreational Accessory Uses may include, but are not limited to greenhouse, tool shed, clubhouse, swimming pool, tennis court, basketball court, and playground.

RECREATIONAL USE – The principal use or intended principal use of land or structures for relaxation, entertainment, amusement, sports, or the like, whether on a fee or non-fee basis, but not including a cinema.

RESTAURANT – Any business establishment principally engaged in serving food, drink, or refreshments, whether prepared on or off the premises provided, however, that drive through windows are not allowed.

RETAIL USE – Business establishments selling goods and/or services to customer's on-site, generally for end use personal, business or household consumption. A reasonable amount of storage of said goods shall also be assumed to be an integral part of retail use.

SHARED PARKING FACILITIES – Parking facilities designed and intended to serve more than a single use as shown on a Site Plan.

SITE PLAN – A plan depicting a proposed Development Project for all or a portion of the PVDD and which is submitted to the Approving Authority for its review and approval in accordance with the provisions of Section 9.5.12 of this Bylaw.

SITE PLAN APPROVAL – The Approving Authority’s authorization for a proposed Development Project based on a finding of compliance with this Section 9.5 of the Bylaw and Design Standards after the conduct of a Site Plan Review.

SITE PLAN REVIEW – The review procedure established by this Section 9.5 and administered by the Planning Board of the Town of Lynnfield as the Approving Authority.

SUB-DISTRICT – A specific and defined area of land within the PVDD that is subject to specific requirements for allowable uses or dimensional requirements that may differ from the requirements for allowable uses or dimensional requirements in other specific and defined areas within the PVDD. The boundaries and the names of the Sub-Districts are referred to in Section 9.5.3 of this Bylaw.

UNDERLYING ZONING – The zoning requirements adopted pursuant to Mass. Gen. Laws Ch. 40A that are otherwise applicable to the geographic area in which the PVDD is located, as said requirements may be amended from time to time.

UNDULY RESTRICT – A provision of a Planned Village Development District or a Design Standard adopted pursuant to Mass. Gen. Laws Ch. 40R and 760 CMR 59.00 that adds unreasonable costs or unreasonably impairs the economic feasibility of a proposed Development Project in a Planned Village Development District.

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

USE, ACCESSORY – A use subordinate to the Principal Use on the same lot or in the same structure and serving a purpose customarily incidental to the Principal Use, and which does not, in effect, constitute conversion of the Principal Use of the lot, site or structure to a use not otherwise permitted in the PVDD. Except where otherwise noted, Accessory Uses are permitted or prohibited in the PVDD to the same extent as if such uses were Principal Uses.

USE, PRINCIPAL – The main or primary purpose for which a structure, building, or lot is designed, arranged, licensed, or intended, or for which it may be used, occupied, or maintained under this Section 9.5. More than one Principal Use is permitted as-of-right on a lot or within a Development Project.

9.5.5 Permitted uses

(a) The following principal uses shall be permitted in the following Sub-Districts As-of-Right upon Site Plan Approval pursuant to the provisions of this Section 9.5.:

	Multi-Family Dwelling Unit	Two and Three Family Dwelling Units	Retail and Restaurant	Office	Conservation	Recreational Use, Principal
Multi-Family Residential Sub-District	Yes	Yes	No	No	Yes	No
Traditional Neighborhood Village Sub-District	No	No	Yes	Yes	Yes	Yes

(b) Parking accessory to any of the above permitted uses, including surface parking, parking under buildings, and above and below grade structured parking, subject to the dimensional requirements of this Section 9.5.

(c) In addition to the foregoing Principal Uses, Recreational Accessory Uses shall be permitted as accessory to the residential uses within the Multi-Family Residential Sub-District.

9.5.6 Prohibited Uses or Activities in the PVDD

All uses not expressly allowed are prohibited. The following uses are expressly prohibited:

1. Landfills, open dumps, or the disposal of solid wastes, other than brush or stumps.
2. Storage of liquid petroleum products, except for the following:
 - (a) Normal household use, outdoor maintenance and heating of a structure;
 - (b) Waste oil retention facilities required by statute, rule or regulation;
 - (c) Emergency generators; fuel (including ultra low sulfur diesel fuel) stored where feasible;
 - (d) Treatment works approved under 314 CMR 5.00 for treatment of ground or surface waters; provided that storage listed in items (a) through (c) above is in free-standing containers within buildings or above ground with secondary containment adequate to contain a spill the size of the container's total storage capacity; and

- (e) Sales to consumers in enclosed containers.
- 3. The construction or operation of a commercial, industrial or business property that involves in any way the burning or use of diesel fuel or involves the regular use and operation of vehicles using or burning diesel fuel (“diesel burning site”).
- 4. The disposal of liquid or leachable wastes, except for normal sanitary wastes for allowed uses and a wastewater treatment plant approved under applicable law.
- 5. The land filling or storage of sludge or septage. Except where storage of sludge or septage is incidental to an allowed use, in which case sludge or septage must be contained in water-tight containers at least 4 feet above the historical high groundwater table elevation.
- 6. The use of septic system cleaners which contain toxic organic chemicals.
- 7. Commercial or industrial uses which discharge process wastewater on-site which contains contaminants other than normal organic wastes.
- 8. The mining of land except as incidental to an allowed use.
- 9. Facilities that generate, treat, store or dispose of hazardous waste subject to G.L., c. 21C and 310 CMR 30.00, except the following:
 - (a) Very small quantity generators as defined under 310CMR 30.00;
 - (b) Household hazardous waste collection centers and events under 310 CMR 30.390;
 - (c) Waste oil retention facilities required by G.L., c. 21, Section 52A;
 - (d) Water remediation treatment works approved under 314 CMR 5.00.
- 10. Storage of liquid hazardous materials as defined in G.L., c. 21E unless in a free-standing container within a building or above ground with secondary containment adequate to contain a spill the size of the container’s total storage capacity.
- 11. Automotive service and repair shops, automobile graveyards, junk and salvage yards; small engine repair, repair of boats.
- 12. The storage of animal manure, unless such storage is covered or contained.
- 13. The storage of commercial fertilizers, soil conditioners, herbicides, or pesticides unless such storage is within a structure designed to prevent the generation and escape of contaminated runoff or leachate.
- 14. Cinema.

15. Adult uses as defined in Section Adult Uses Definitions *A.T.M. APRIL 25, 2016*

16. Medical Marijuana facilities as defined in Section Medical Marijuana Definitions.
A.T.M. APRIL 25, 2016

9.5.7 Dimensional and other requirements

1. Buildings and Development Lots within the PVDD shall be subject to the dimensional and other requirements set forth in this Section 9.5.7.
2. Density. Subject to the limit on Maximum Residential Development in Section 9.5.7.8 below, Residential Uses shall be permitted As-of-Right at the following densities:
 - (a) Multi-family residential uses shall be permitted As-of-Right at a density of at least twenty-five (25) Dwelling Units per acre of Developable Land.
 - (b) Two- and Three-family residential uses shall be permitted As-of-Right at a density of at least twelve (12) Dwelling Units per acre of Developable Land.
3. Minimum area and setbacks. There shall be no minimum lot area or setback requirements within the PVDD except for the Residential Buffer described herein.
4. Height.
 - (a) In the Multi-Family Residential Sub-District, the maximum height for a Development Project shall be four stories or fifty (50) feet, whichever is taller.
 - (b) In the Traditional Neighborhood Village Sub-District, the maximum height of a one story building shall be thirty (30) feet, the maximum height of a two story building shall be forty-five (45) feet, provided further that an architectural feature of a building located at a corner or at the end of a streetscape may be permitted up to sixty (60) feet in height at locations designated in the Design Standards provided that the portion of the architectural feature above forty-five (45) feet is not occupied.
5. Buffer from adjacent existing residential development. Within the Traditional Neighborhood Village Sub-District, the overall site design shall incorporate a Residential Buffer of two hundred (200) feet in width along the easterly boundary of the PVDD, measured from the westerly sideline of the Walnut Street right-of-way or from the westerly property line of adjacent residential lots situated outside the PVDD in existence on the date of adoption of this Section 9.5, whichever is further west. No vertical construction or pavement shall be allowed within the Residential Buffer, provided that the following activities shall be permitted within the Residential Buffer: pedestrian paths and sidewalks provided said paths and sidewalks are limited to a single pedestrian access point to the District through a point of

intersection with Walnut Street within fifty (50) linear feet of the primary vehicular access drive; a single vehicular access point to the District through a point of intersection with Walnut Street; cart paths to serve adjacent recreational uses; such emergency access and egress as may be required by the Town of Lynnfield; drainage facilities; utilities and related easements but not including a wastewater treatment facility; landscaping and plantings; and signage and lighting approved by the Approving Authority pursuant to this Section 9.5.

6. Non-Frontage Development. In the PVDD and on parcels that are contiguous to the PVDD, a lot lacking frontage may be developed and used without regard to the lack of frontage, provided that the Non-Frontage Development has permanent access to a private or public way that is located within the PVDD through easements recorded with the Southern Essex District Registry of Deeds and appropriate provisions are made for parking, drainage and utilities. The development and use of such Non-Frontage Development located entirely within the PVDD shall be consistent with the requirements of this Section 9.5. Such Non-Frontage Development may be subdivided and sold or transferred, provided that each lot so subdivided retains or is granted such cross access, drainage and utility easements to serve such Non-Frontage Development. Should such transfer occur after an approval hereunder, in addition to the easements referenced above, the transferee shall demonstrate to the Approving Authority that the Non-Frontage Development shall remain in compliance with any conditions of Site Plan Approval and, for parcels that are contiguous to the PVDD, with applicable zoning requirements.
7. Number of buildings on a lot. In the PVDD, more than one principal building may be erected on a lot.
8. Maximum Residential Development. The aggregate number of Dwelling Units that may be permitted pursuant to this Section 9.5 shall be one hundred and eighty (180). All Dwelling Units permitted and constructed pursuant to this Section 9.5 shall be located within the Multi-Family Residential Sub-District.
9. Total allowable non-residential uses. The total non-residential uses within the PVDD, including retail, restaurant, office, and recreational uses, but excluding the 55,000 square feet of Gross Leasable Floor Area of the fitness facility in existence on the date of adoption of this Section 9.5, shall not exceed a total of 475,000 square feet of Gross Leasable Floor Area; provided, however, that this total shall include 50,000 square feet of Gross Leasable Floor Area that is located solely on the second floor of a building; and provided further that, for retail portions of a Development Project, the difference between Gross Leasable Floor Area and the Gross Floor Area of all retail spaces shall not exceed five percent (5%). Nothing in this section shall limit the right of the Applicant to propose that greater than 50,000 square feet of Gross Leasable Floor Area be located on the second floor of a building, subject to compliance with the Dimensional Standards in this Section 9.5.7.
10. Projects within the Traditional Neighborhood Village Sub-District shall have a mix of retail uses and sizes of stores in order to create a vibrant and economically strong retail environment. Retail uses shall be restricted as follows:

- (a) No more than one (1) retail unit may be greater than 80,000 square feet of Gross Leasable Floor Area provided that such use shall not be greater than 25% of the total allowable non-residential uses set forth in Section 9.5.7.9 above, and provided further that the total area of the building shall be divided between two floors such that the total Gross Leasable Floor Area of the first floor of the building shall not exceed 80,000 square feet.
 - (b) In addition to the allowable retail unit referenced in Section (a) above, no more than two (2) retail units may be greater than 50,000 square feet of Gross Leasable Floor Area, provided that each such retail unit shall be less than 80,000 square feet of Gross Leasable Floor Area.
 - (c) At least 25% of the total permitted retail building area of the project shall be composed of retail units of 12,500 square feet of Gross Leasable Floor Area or less.
11. 9.5.(2) shall be governed by this Section and by Design Standards as adopted pursuant Section 9.5.7, and subject to the following limitations:
 12. Structured parking. Structured parking allowable pursuant to Section 9.5.5(2) shall be governed by this Section 9.5 and by Design Standards as adopted pursuant Section 9.5.9., and subject to the following limitations:
 13. Structured parking in the Traditional Neighborhood Village Sub-District shall not exceed forty-five (45) feet in height and shall be approved as to capacity and location by the Approving Authority.
 14. Structured parking in the Multi-Family Residential Sub-District shall only be permitted if located exclusively within a ground level or a sub-grade level of a residential Development Project, and provided further that said structured parking shall not result in a maximum building height in excess of the maximum allowable height in this Section 9.5.7.

9.5.8 Parking

1. Parking shall be provided in order to meet or exceed the following minimum requirements:

Table 9.5.8-1	
Use	Minimum Required Parking
Retail	1 space per 250 square feet of Gross Leasable Floor Area
Office	1 space per 333 square feet of Gross Leasable Floor Area

Medical or Dental Office or Clinic	3 spaces for each individual office or suite, plus 3 spaces for each additional doctor or dentist within a single office or suite
Restaurant or Recreational	1 space per 200 square feet of Gross Leasable Floor Area
Residential Use	1.5 spaces per Dwelling 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.

2. Reduction in parking requirements. Notwithstanding anything to the contrary herein, any minimum required amount of parking may be reduced by the Approving Authority through the Site Plan Approval process, if the Applicant can demonstrate that the lesser amount of parking will not cause excessive congestion, endanger public safety, or that a lesser amount of parking will provide positive environmental or other benefits, taking into consideration:

- (a) The availability of public or commercial parking facilities in the vicinity of the use being served;
- (b) For uses in the Traditional Neighborhood Village Sub-District only , 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 as maybe 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 (ADA).

9.5.9 Design Standards

To ensure that new development shall be of high quality, and shall meet the standards envisioned by the Town of Lynnfield in adopting this Bylaw, the Planning Board shall adopt the Design Standards governing the issuance of Site Plan Approvals for Development Projects within the PVDD and shall file a copy with the Town Clerk. In addition to the standards set forth in this Bylaw, the physical character of Development Projects within the PVDD shall comply with such Design Standards. In the event of any conflict between this Bylaw and the Design Standards, this Bylaw shall govern and prevail.

9.5.10 Transportation Network

1. Design and location.

The overall site design shall include a cohesive transportation network providing for vehicular and pedestrian circulation to and within the PVDD. Design and construction shall incorporate sound engineering and construction standards including adequate provisions for drainage.

2. Ownership and maintenance.

The plans and documentation submitted to the Approving Authority shall include a description of proposed private ownership and maintenance of all traveled ways, including vehicular ways and sidewalks, and all proposed public spaces or facilities. As a condition of Site Plan Approval, the Approving Authority may require provision of an operations and maintenance plan for traveled ways and drainage facilities associated with the traveled ways. If applicable, a homeowners' association, a condominium association or a business association may be established to ensure that all traveled ways and associated drainage facilities shall be properly maintained by a private party, and that the Town of Lynnfield shall incur no expense related to such operations and maintenance.

3. Plans.

The plans and any necessary supporting documents submitted with an application for Site Plan Approval within the PVDD shall show the general location, size, character, and general area of traveled ways and public spaces or facilities.

9.5.11 Affordable Housing

1. Number of affordable units. Twenty percent (20%) of all Dwelling Units constructed in a Development Project shall be maintained as Affordable Units. Twenty-five percent (25%) of all rental Dwelling Units in a Development Project shall be Affordable Units. In Development Projects in which all of the Dwelling Units are limited to occupancy by elderly persons and/or by persons with disabilities, twenty-five percent (25%) of the Dwelling Units shall be Affordable Units, whether the Dwelling Units are rental or ownership 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 utilities and parking, shall not exceed thirty 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 DHCD shall apply;
- (b) For an Affordable Homeownership Unit the monthly housing payment, including mortgage principal and interest, private mortgage insurance, property taxes, condominium and/or homeowner's association fees, insurance, and parking, shall not exceed thirty percent (30%) of the maximum monthly income permissible for an Eligible Household, assuming a Family size equal to the number of bedrooms in the unit plus one; and
- (c) Affordable Units required to be offered for rent or sale shall be rented or sold to and occupied only by Eligible Households.

4. Design and construction.

- (a) Design. Affordable Units must be dispersed throughout a Development Project and be comparable in initial construction quality and exterior design to the Unrestricted Units. However, nothing in this section is intended to limit a homebuyer's rights to renovate a Dwelling Unit under applicable law. The Affordable Units must have access to all on-site amenities. Affordable Units shall be finished housing units; and
- (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. Unit mix. The total number of bedrooms in the Affordable Units shall, insofar as practicable, be in the same proportion to the total number of bedrooms in the Unrestricted Units.

6. Affordable housing restriction. Each Affordable Unit shall be subject to an Affordable Housing Restriction which is recorded with the Southern Essex District Registry of Deeds or the Southern Essex Registry District of the Land Court. The Affordable Housing Restriction shall provide for the implementation of the requirements of this Section 9.5. All Affordable Housing Restrictions must include, at minimum, 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 Project or portion of a Project 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 Project or the rental portion of a Project without specific unit identification.

- (c) The term of the Affordable Housing Restriction shall be the longest period customarily allowed by law but shall be no less than thirty (30) years.
- (d) The name and address of an Administering Agency with a designation of its power to monitor and enforce the Affordable Housing Restriction;
- (e) Reference to a 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. The housing marketing and selection plan shall provide for local preferences in resident selection to the maximum extent permitted under applicable law. The plan shall designate the household size appropriate for a unit with respect to bedroom size and provide that preference for such unit shall be given to a household of the appropriate size;
- (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 Administering Agency;
- (i) Provision for effective monitoring and enforcement of the terms and provisions of the Affordable Housing Restriction by the Administering Agency;
- (j) Provision that the restriction on an Affordable Homeownership Unit shall run in favor of the Administering Agency and the Town of Lynnfield, in a form approved by municipal 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 Project shall run with the rental Project or rental portion of a Project and shall run in favor of the Administering Agency and/or the municipality, 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 Administering Agency, in a form specified by that agency, 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 Administering Agency may reasonably request in order to ensure affordability; and
- (n) Designation of the priority of the Affordable Housing Restriction over other mortgages and restrictions.

7. Administration.

- (a) Administering Agency. An Administering Agency for Affordable Units, which may be the Lynnfield Housing Authority or other qualified housing entity shall be designated by the Lynnfield Board of Selectmen and 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 Affordable Units is properly and reliably determined;
- 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 Southern Essex District Registry of Deeds or the Southern Essex Registry District of the Land Court.

- (b) Housing Marketing and 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.
- (c) Failure of the Administering Agency. In the case where the Administering Agency cannot adequately carry out its administrative duties, upon certification of this fact by the Board of Selectmen or by the Department of Housing and Community Development, 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 the Department of Housing and Community Development.

9.5.12. Site Plan Review

The Planning Board shall be the Approving Authority for Site Plan Approvals in the PVDD, and shall adopt and file with the Town Clerk administrative rules relative to the application requirements and contents for Site Plan Review. Such administrative rules and any amendment thereto must be approved by the Department of Housing and Community Development. The Site Plan Review 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 Planning Board. 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 Planning Board prior to filing the application. At the pre-application review, the Applicant shall outline the proposal and seek preliminary feedback from the Planning Board, other municipal review entities, and members of the public. The Applicant is also encouraged to request a site visit by the Planning Board 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 Planning Board. 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 Planning Board and Building Inspector. As part of any application for Site Plan Approval for a Development Project, the Applicant must submit the following documents to the Approving Authority and the Administering Agency:
 - (1) evidence that the Development Project complies with the cost and eligibility requirements of Section 9.5.11;
 - (2) Development Project plans that demonstrate compliance with the design and construction standards of Section 9.5.11; and
 - (3) a form of Affordable Housing Restriction that satisfies the requirements of Section 9.5.11.
- (b) Review fees. The Applicant shall be required to pay for reasonable consulting fees to provide peer review of the application for the benefit of the Planning Board. Such fees shall be held by the Town of Lynnfield in an interest-bearing escrow account, and shall be used only for expenses associated with the use of outside consultants employed by the Planning Board in reviewing the Site Plan application. Any surplus funds remaining after the completion of such review, including any interest accrued, shall be returned to the Applicant forthwith;

- (c) Upon receipt by the Planning Board, applications shall be distributed to the Building Inspector, Fire Chief, Police Chief, Board of Health, Conservation Commission, the Board of Selectmen and the Department of Public Works. Any reports from these parties shall be submitted to the Planning Board within sixty (60) days of filing of the application; and
- (d) Within thirty (30) days of filing of an application with the Planning Board, the Planning Board 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 Planning Board 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 Planning Board shall hold a public hearing and review all applications according to the procedure specified in Mass. Gen. Laws Ch. 40R § 11 and 760 CMR 59.04(1)(f).

4. Site Plan Approval decision.

- (a) The Planning Board shall make a decision on the Site Plan application, and shall file said decision with the Town Clerk, within one hundred twenty (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 Planning Board may be extended by written agreement between the Applicant and the Planning Board. A copy of such agreement shall be filed with the Town Clerk;
- (b) Failure of the Planning Board to take action within one hundred twenty (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 Planning Board's failure to act on an application within the one hundred twenty (120) days or extended time, if applicable, must notify the Town Clerk in writing of such approval, within fourteen (14) days from the expiration of said time limit for a decision, and that a copy of that notice has been sent by the Applicant to the parties in interest by mail and that each such notice specifies that appeals, if any, shall be made pursuant to Mass. Gen. Laws Ch. 40R and shall be filed within twenty (20) days after the date the Town Clerk received such written notice from the Applicant that the Planning Board failed to act within the time prescribed;
- (d) The Planning Board'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 Site 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 Planning Board;

- (e) The decision of the Planning Board, together with the detailed reasons therefor, shall be filed with the Town Clerk, the Board of Appeals 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 twenty (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 Planning Board 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 Southern Essex District 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 Planning Board 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;
- (b) The proposed Development Project as described in the application meets all of the requirements and standards set forth in this Section 9.5 and applicable Design Standards, or a waiver has been granted therefrom; and
- (c) Any extraordinary adverse potential impacts of the Development Project on nearby properties have been adequately mitigated.

For a Development Project subject to the Affordability requirements of Section 9.5.11, compliance with condition (b) above shall include written confirmation by the Approving Authority 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 Administering Agency, 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 Lynnfield.

- (d) **Criteria for conditional approval.** The Planning Board may impose conditions on a Development Project as necessary to ensure compliance with the PVDD requirements of this Section 9.5 and applicable Design 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 Mass. Gen. Laws Ch. 40R and applicable regulations and do not Unduly Restrict opportunities for development.

- (e) Criteria for denial. The Planning Board may deny an application for Site Plan Approval pursuant to this Section 9.5 of the Bylaw only if the Planning Board finds one or more of the following:
 - (f) The Development Project does not meet the requirements and standards set forth in this Section 9.5 and applicable Design Standards;
 - (g) The Applicant failed to submit information and fees required by this Section 9.5 and necessary for an adequate and timely review of the design of the Development Project or potential Development Project impacts; or
 - (h) It is not possible to adequately mitigate significant adverse Development Project impacts on nearby properties by means of suitable conditions.
 - (i) Time limit. A project approval shall remain valid and shall run with the land indefinitely provided that construction has commenced within two (2) 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.
 - (j) Appeals. Pursuant to Mass. Gen. Laws Ch. 40R, § 11, any person aggrieved by a decision of the Planning Board may appeal to the Superior Court, the Land Court, or other court of competent jurisdiction within twenty (20) days after the Site Plan decision has been filed in the office of the Town Clerk.

9.5.13. Waivers

The Approving Authority may not waive provisions of this Bylaw. The Approving Authority may waive specific requirements of applicable Design Standards upon a finding that such waiver will allow the Development Project to achieve the density, affordability, mix of uses, and/or physical character allowable under this Section 9.5.

9.5.14. Project Phasing

The Approving Authority, as a condition of any Site Plan Approval, may allow a Development Project to be phased for the purpose of coordinating the Development Project with any mitigation required to address any extraordinary adverse Development Project impacts on nearby properties and with the implementation of the infrastructure improvements by the party designated as responsible under the Infrastructure Letters.

9.5.15 Change in Plans after Approval by Approving Authority

1. Minor Change. After Site 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 Site Plan Approval pursuant to this Section 9.5.

9.5.16 Fair Housing Requirement

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

9.5.17 Annual Update

On or before July 31 of each year, the Board of Selectmen shall cause to be filed an Annual Update with the Department of Housing and Community Development (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 Mass. Gen. Laws Ch. 40S and accompanying regulations. The Town Clerk of the Town of Lynnfield 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.

9.5.18 Notification of Issuance of Building Permits

Upon issuance of a residential building permit within the PVDD, the Building Inspector of the Town of Lynnfield shall cause to be filed an application to the Department of Housing and Community Development (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 Mass. Gen. Laws Ch. 40R. The application shall contain all information required in 760 CMR 59.06(2), as may be amended from time to time, and additional information as may be required pursuant to Mass. Gen. Laws Ch. 40S and accompanying regulations. The Town Clerk of the Town of Lynnfield 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.

9.5.19 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 Mass. Gen. Laws Ch. 40A § 5 and Mass. Gen. Laws Ch. 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 Department of Housing and Community Development and the Office of the Massachusetts Attorney General.

9.5.20 Severability

If any provision of this Section 9.5 is found to be invalid by a court of competent jurisdiction, the remainder of Section 9.5 shall not be affected but shall remain in full force. The invalidity of any provision of this Section 9.5 shall not affect the validity of the remainder of the Zoning Bylaws of the Town of Lynnfield.”