

974 CMR 5.00: RESIDENTIAL

Section

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5.01: Residential Development

(1) Goals.

- (a) To foster the creation of housing that:
  - 1. Is compatible in scale, form, style, and size with adjacent residential areas;
  - 2. Accommodates a variety of household types and income levels;
  - 3. Serves households who live or work in the Devens region;
  - 4. Is varied as to type and size.
- (b) To provide a streamlined residential development review process.
- (c) To encourage sustainable residential development.
- (d) To foster the creation or preservation of open space, trails, and other community amenities.
- (e) To promote the evolution of a neighborhood at Devens.
- (f) To provide for an integrated system of roads and utilities.
- (g) To preserve mature trees, street trees, wooded areas and existing topography, and
- (h) To minimize the impact of new development on previously undisturbed areas.

(2) Applicability. All development on land zoned Residential I as November 18, 1994 (the date of the Devens By-laws) except projects of four or fewer dwelling units or developments on less than two acres shall be a Residential Development complying with 974 CMR 5.01. One or more Applicants shall not segment a project in order to circumvent the requirements of 974 CMR 5.01.

(3) General Requirements.

- (a) Approval of a Residential Development (RD) shall require approval by the DEC of a Residential Master Plan (RMP), a Residential Development Plan (RDP), and a Master Residential Site Plan (MRSP).
- (b) The RMP, RDP, and the MRSP are each components of the Unified Permitting system and each requires a Level Two permit. The DEC shall review the RMP, RDP, and MRSP in accordance with the procedures for review of Level Two permits as set forth in 974 CMR 1.00: *Administration*.
- (c) The DEC shall approve, approve with conditions, or deny an RMP, RDP, and/or MRSP.
- (d) The fee for an RDP, and MRSP is a Unified Permit fee as detailed in 974 CMR 1.08: *Time Limits For Review*. The RMP fee is \$50 per dwelling unit plus the land factor of \$.005/sq.ft. per square foot of the total land area plus peer review fees. The Unified Permit fee is due upon the submission of the RDP and may be divided such that 50% is paid upon submission of the RDP and the remaining 50% paid upon submission of the MRSP.

(4) Residential Master Plan (RMP).

- (a) The RMP provides in a conceptual manner, the framework for the RD for the entire Residential I zoning district. The RMP demonstrates in a narrative and graphic form where the roads, utilities, open spaces, trails, resource areas, and housing will be located.
- (b) A RMP shall include the following:
  - 1. A conceptual plan at a scale of one inch = 80 feet, for the entire zoning district, depicting the existing and proposed location of roads, utilities, trails, open space, resource areas, dwelling units and topography.
  - 2. A delineation of the area to be developed by the Applicant, if less than the entire zoning district.
  - 3. A table showing the total number of dwelling units and the number of dwelling units of each size and type.

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4. A narrative outlining, in a general manner, housing tenure (whether the dwelling units will be “for-sale” [condominium or fee simple lots] or rental), low-and-moderate income unit prices and households eligible for low-and-moderate income housing.
  5. A narrative demonstrating how the RMP meets the By-laws and the goals of 974 CMR 5.01.
  6. A narrative describing the Applicant’s approach to open space planning within the RD and proposed uses of the designated open space areas.
  7. A narrative outlining the proposed phasing and schedule for the development of the entire zoning district.
  8. A narrative demonstrating how sustainable development will be promoted. The narrative shall include a general proposal for the recycling of materials, maximization of passive solar potential, minimization of topographic changes, preservation of existing street trees and wooded areas, use of environmentally-safe materials, resource efficient appliances and materials, natural (energy-efficient) methods of heating and cooling and other methods of promoting sustainable development.
  9. A narrative or graphic describing the variety of scale, forms, unit types, and sizes for the proposed dwellings.
- (c) RMP General Requirements.
1. At least 25% of the dwelling units within an RD shall be sold or rented to Low- and Moderate-income households. “Low-income” shall mean 80% or less of Median Income. “Moderate-income” shall mean 120% or less of Median Income. Median Income shall mean the median income of the Boston Metropolitan Statistical Area, as determined by the U.S. Department of Housing and Urban Development, at the time the Unified Permit is granted, adjusted for household size. At least 10% of the dwelling units within an RD shall be Low-income. At least 15% of the dwelling units within an RD shall be Moderate-income, with these dwelling units being sold or rented to households earning an average of 100% of Median Income. The Applicant shall demonstrate, to the satisfaction of the DEC, that the dwelling units shall be priced so that Low- and Moderate-income households can afford to purchase or rent them.
  2. At least 25% of the total area of the RD shall be open space and/or trails. The area required for detention and retention ponds shall not be included within this 25%,
  3. A village green measuring at least one acre shall be provided for community activities of the RD.
- (d) Review Criteria. The DEC shall approve or approve with conditions the RMP if the Applicant can demonstrate, to the satisfaction of the DEC, that the RMP:
1. Is consistent with the goals of 974 CMR 5.01;
  2. Complies with the RMP General Requirements;
  3. The Submission is Complete.
- (5) Residential Development Plan.
- (a) The RDP establishes the precise location of roads, lots, and open space within the RD.
  - (b) An RDP shall meet all of the Submission and Plan Form and Contents requirements set forth in 974 CMR 2.04. In addition, the RDP shall show:
    1. Location and proposed uses of open space within the development and a narrative demonstrating compliance with the Devens Open Space and Recreation Plan (DOSRP).
    2. Location of trails and how proposed trails conform with the “Devens Main Post Trails,” plan prepared by Stillman Restoration/Design, July 21, 2001, and any amendments adopted thereto by the DEC.
    3. A table showing the required dimensional controls to be utilized in the development, including setbacks, building heights, lot coverage by buildings, total impervious cover on a lot, and parking required.
    4. The anticipated mix of housing types and income groups to be served within the development.
    5. Additional details of methods to be used to implement sustainable development within the RD.
    6. A plan showing phases of construction and schedule, including a statement that the affordable units and open space amenities shall be built in concert with market-rate units.
    7. All easements, existing and proposed.

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8. Plans for construction mitigation, erosion and sedimentation control, and if any earth removal, a plan for earth removal.
  9. Methods (including traffic calming) to be used to foster the creation of a pedestrian- and bike-friendly community, to control truck and nonresident traffic through the RD, and vehicle operating speeds.
  10. Design of landscape treatments within the road right-of-ways and open space, signs, and outdoor lighting.
  11. Lot lines, the area of each lot in square feet, and dimensions of all proposed lots.
  12. Information concerning pedestrian and vehicular traffic and circulation.
- (c) RDP General Requirements. The requirements of 974 CMR 2.00 shall apply with the following additions:
1. Additional Setback Requirement – A vegetated screen meeting the requirements of 974 CMR 3.04(8)(g) shall be planted within a 25 foot deep buffer that runs adjacent to the 69 KV power line easement on the lot.
  2. Lot Sizes. The Minimum Lot Area:
    - a. for a single-family dwelling or a two family attached dwelling shall be 15,000 square feet.
    - b. for a multifamily dwelling shall be 15,000 square feet plus 2,500 square feet for each dwelling unit beyond the first two up to the maximum eight dwelling units per structure.
  3. The Minimum Lot Area shall not include land:
    - a. within a utility easement (except within required setbacks);
    - b. land that is a resource area (as defined in 974 CMR 4.06); and
    - c. land used for retention or detention basins.
  4. Open Space. There shall be different types of open space including active and passive recreation areas, conservation areas and buffer zones, and connections between open space areas. Open space shall be distributed throughout the RD and shall be adequate to meet the needs of residents.
  5. Streets and roadways shall be designed to:
    - a. be generally parallel and preserve existing trees to the maximum extent feasible.
    - b. comply with the street design standards and criteria of Minor Collector Streets and Lanes of 974 CMR 2.07.
    - c. have as few driveway openings as feasible. Driveways shall be shared to the maximum extent feasible.
  6. Landscape Treatment.
    - a. The landscape treatment shall complement the existing landscape patterns within the R-I district. Landscaping requirements for streets shall comply with the 974 CMR 2.07(4).
    - b. Specimen trees (those exceeding 12 feet caliper) shall be preserved to the maximum extent feasible with lot lines and street layouts adjusted to preserve significant trees.
    - c. Topographic alterations shall be minimized (see 974 CMR 3.04(5)) to the maximum extent feasible.
    - d. Wooded areas that are contiguous and over one acre in size shall be preserved to the maximum extent feasible.
  7. Sidewalks. Sidewalks shall comply with 974 CMR 2.00. Sidewalks shall be constructed of concrete. Sidewalks may meander within the road right-of-way or within easements adjacent to the road rights-of-way if necessary to preserve specimen trees or minimize topographic disturbance.
  8. Utilities. Utility lines, services, and connections shall be underground. Existing above-ground utilities may remain in specific locations with the approval of the DEC.
  9. Trails. The main trail for the area has been shown in the “Devens Main Post Trails,” prepared by Stillman Restoration/Design, July 21, 2001. Additional trails connecting open space and recreational areas within the RD shall be provided to ensure a continuous pedestrian and bicycle network. Appropriate easements shall be created and the trails shall be constructed. Trail width shall be at least five feet but the DEC may require a larger width based on proposed use. Specifications for trails are in 974 CMR 3.00 and shown as Figure 974 CMR 3.06(12) Figure L.

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10. Sustainable development elements incorporated in the RDP shall be listed.
  11. Vehicular and pedestrian circulation and traffic calming measures shall be shown,
  12. Maximum Lot Coverage.
    - a. Buildings and Structures. Buildings and structures (including decks) shall not exceed 10% of the Usable Lot Area. Usable Lot Area is that portion of the lot that has a gradient of less than 15%.
    - b. Impervious Surfaces. Impervious surfaces (including but not limited to buildings, structures, roads, driveways, and sidewalks) shall not exceed 25% of the Usable Lot Area.
- (d) The DEC shall approve (or approve with conditions) the RDP if the Applicant can demonstrate, to the satisfaction of the DEC, that the RDP:
1. is consistent with the approved RMP;
  2. complies with 974 CMR 2.04(6);
  3. submission is complete;
  4. consistent with the goals of 974 CMR 5.01;
  5. complies with the RDP general requirements.
- (6) Master Residential Site Plan. The purpose of MRSP review is to review prototypical site plans demonstrating locations of dwellings and landscaping on the lots and locations of driveways.
- (a) The MRSP shall show the following:
    1. footprints of all buildings, with a maximum of two alternative locations for the principal structure on each lot.
    2. existing street trees and new trees to be planted on the lot.
    3. driveways and alleys
    4. parking
    5. requested waivers
  - (b) For each dwelling type, the following shall be submitted:
    1. building elevations
    2. materials and colors to be used on building façades
    3. an individual, sample site plan showing landscaping, parking, and drives (if any) for each model (*i.e.* having unique footprint) of single family dwellings, two family attached dwelling, and multifamily buildings.
    4. proposed design guidelines to be applied to the Residential Development to ensure compatibility with adjacent land uses and sensitivity to visual impacts.
    5. Proposed measures to ensure sustainable development and energy efficiency
  - (c) MRSP General Requirements.
    1. Additional Setback Requirements.
      - a. No portion of a dwelling unit may be located closer than 100 feet from the 69 kV power line easement. No buildings or structures may be located within the 25 foot deep vegetated buffer along the power line easement.
      - b. Corner lots shall comply with the front yard setback requirements for each side of the lot that is parallel to a street.
      - c. Buildings shall be set back 15 feet from the edge of slopes which exceed 15% and measure in excess of 5000 sq.ft.
    2. Building Orientation. The front façade of a dwelling shall face the public way. Dwellings on corner lots shall face the street on the longer side of the block.
    3. Housing Types and Design Criteria.
      - a. Single-family, two family attached and Multifamily dwellings are allowed uses. A minimum of 15% of the total dwelling units in a RD shall be units in Multifamily dwellings.
      - b. The color, size, height, location, proportion of openings, roof treatments, building materials, massing, landscaping, and lighting shall be compatible with those of the “Elm/Walnut” area.
      - c. Two family attached dwellings shall appear from the street to be single-family dwellings.

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- d. Multifamily dwellings may be attached townhouses or arranged and massed in such a way to appear to be a single-family dwelling with an attached carriage shed and ells.
- 4. Parking and Driveways.
  - a. Driveways shall be shared to the maximum extent feasible. Driveways shall be no wider than 12 feet measured at the street right of way.
  - b. Driveways shall be located so as to provide adequate sight distance for vehicles exiting onto the street.
- 5. Landscape Treatment.
  - a. At least one tree exceeding three-inch caliper shall be provided per each 3000 sq. ft. of lot area, at least one tree exceeding three-inch caliper to be located in the front yard of each lot.
  - b. Existing trees shall be preserved to the maximum extent feasible to meet this requirement; new trees shall be native species and selected to best fit site considerations and increase ecological diversity within the area. A preserved specimen tree shall fulfill the requirement for two three-inch caliper trees.
- (d) The DEC shall approve (or approve with conditions) the MRSP if the Applicant can demonstrate, to the satisfaction of the DEC, that the MRSP:
  - 1. meets the requirements of 974 CMR 3.03(2): *Review Criteria*;
  - 2. consistent with the goals of 974 CMR 5.01;
  - 3. submission is complete;
  - 4. complies with the approved RMP and RDP;
  - 5. complies with the MRSP General Requirements.
- (e) Upon approval of an RD and prior to issuance of a building permit, an Applicant shall obtain Level One Development Plan approval pursuant to 974 CMR 1.04(4): *Level One Development Plan* and Level One Lotting Plan approval pursuant to 974 CMR 1.04(3): *Level One Lotting Plan*; except that the Applicant need not submit traffic counts and sight distance data. The Director shall approve a Level One Development Plan for an RD if the Level One Development Plan is consistent with the approved MRSP.
- (f) Affordable Unit Design and Location. The exterior of the affordable units shall be indistinguishable from the exterior of the market-rate units. Affordable units shall be dispersed throughout the Residential Development.
- (g) Prior to issuance of a building permit, the Applicant shall submit to the DEC a proposed deed rider and regulatory agreement (and condominium documents if the project is a condominium) for review and approval by legal counsel to the DEC.
- (h) Affordable units shall be affordable in perpetuity or the maximum period allowed by law.

5.02: Innovative Residential Development (IRD)

- (1) Residential I (IRD RI).
  - (a) Goals. To provide a streamlined development review process that promotes residential development that meets a variety of housing needs, protects the environment, furthers energy, water and resource efficiency, and complements residential development patterns at Devens by encouraging:
    - 1. Development on small lots;
    - 2. A connected system of trails and open space;
    - 3. Housing diversity;
    - 4. A system of safe, accessible, multi-purpose streets and sidewalks;
    - 5. Development designed primarily to accommodate people, not cars; and
    - 6. The goals and objectives of the Reuse Plan and By-laws.
  - (b) Applicability. Applicants for approval of projects located in the Residential I District may develop in accordance with 974 CMR 5.02(1) instead of 974 CMR 5.01.
  - (c) Definitions Defined terms are capitalized. The definitions listed below pertain to 974 CMR 5.02(1) only.

Affordable: A household earning 90% of AMI would not expend each year more than 30% of annual income for purchasing (assuming a 5% deposit on a mortgage) or renting a Dwelling Unit (including utilities).

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Area Median Income (AMI). Boston area median income for the HUD Metropolitan Fair Market Area, adjusted for household size, as determined by the U.S. Department of Housing and Urban Development (HUD) pursuant to 42 U.S.C. 1437, § 3 (the Housing Act of 1937).

Area to be Developed For Housing. The total area of land included within the project boundary, excluding all Open Space(s) and Park(s).

Block. Area bounded on all sides by streets and/or roads, sidewalks or publicly-accessible trails.

Front. As defined in 974 CMR 1.02: *Definitions* except that the front of a building may face a road or a sidewalk.

Moderate-income: 100% or below of AMI.

Multi-family: A building that includes more than two and less than 21 dwelling units.

Open Space. Land available for use in perpetuity for active or passive recreation, conservation, agriculture or forestry, or historic, educational or cultural purposes.

Park. Land owned or accepted by MassDevelopment and available for use in perpetuity for active recreation, containing amenities that encourage community interaction such as playsets, benches, playing fields, community gardens, trails, and picnic areas.

Yard. As defined in 974 CMR 1.02: *Definitions*, except that stoops, open porches and stairs leading to the main level of a Structure may be located in any Yard (Front, Side or Rear).

(d) Review Standards. Applicants shall demonstrate to the satisfaction of the DEC, that an IRD R1 project:

1. Complies with the By-laws and regulations except as otherwise noted in 974 CMR 5.02(1)(c)1.a. through d.; and
2. The development plan is superior to a conventional plan providing for the construction of one building on one lot, in the way it preserves open space, minimizes environmental disruption, and allows for more efficient provision of services to the residents of the development than would be available under a conventional approach; and
3. For projects with 25 acres or less, the project is designed in a manner that shows sensitivity (*i.e.*, compatibility) with existing conditions and to the concerns of adjacent users by taking into consideration the proximity of proposed buildings to adjacent lot lines; the nature and extent of existing or proposed perimeter buffers on the lot and screening areas.
4. Complies with the Requirements and Design Standards as set forth in 974 CMR 5.02(1), except as may be waived by the DEC.

(e) Process.

1. At a public hearing on an application for a Unified Permit, Applicant demonstrates to the satisfaction of the DEC, that the project complies with 974 CMR 5.02(1), and the applicable sections of 974 CMR 2.00: *Subdivision* and 3.00: *Site Plan Approval*.
2. For projects with Lots, Applicant demonstrates, to the satisfaction of the Land Use Administrator, that the project complies with 974 CMR 1.04(3): *Level One Lotting Plan*.
3. Applicant applies for building permit.

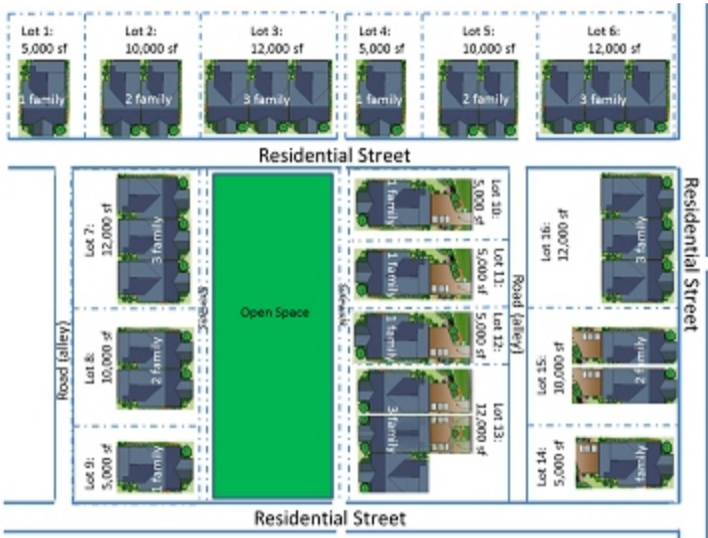
(f) Neighborhood Development Design Standards.

1. Applicants shall demonstrate, to the satisfaction of the DEC, that the project complies with the following:
  - a. Maximum Block Length. No longer than 800 feet as measured from the center line of intersecting streets and/or roads, sidewalks and/or trails.
  - b. Density. There is an average of at least seven dwelling units per acre in the Area to Be Developed For Housing. As part of its Permit application, the Applicant shall provide a sketch of the Area to Be Developed for Housing, which for projects over seven acres shall include a Park [see 974 CMR 5.02(1)(l)], the shape of which is subject to concurrence by the Director, for purposes of calculating Minimum Density.

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- c. Minimum Percent of Multi-family Dwelling Units. At least 15% of the dwelling units in a project are Multi-family.
- d. Setbacks as set forth in the By-laws, but *see* definition in 974 CMR 5.02(1).
- 2. Frontage on Roads. The front façade of dwelling units may abut open space so long as there is a road at the rear of these units that is adequate for emergency vehicle access, as shown in 974 CMR 5.02(1)(f)2.: *Figure 1.* In such cases, minimum frontage requirements may be achieved by the rear lot boundary contiguous with the Road that provides adequate emergency access. Dwelling units shall be accessible from the front via a sidewalk or multi-purpose trail. The front lot line shall be the line abutting open space and sidewalk.

Figure 1: Dwelling Units Abutting Open Space:



- (g) Lot Development Design Standards.
  - 1. Applicants shall demonstrate, to the satisfaction of the DEC, that the project complies with 974 CMR 5.02(1)(g)1.: *Table 1: Lot Development Area, Frontage and Setback Design Standards.*

Table 1: Lot Development Area, Frontage and Setback Design Standards

Residential Building Type	Max. Lot Area Square Feet (sf)	Min. Lot Area Square Feet (sf)	Min. Lot Frontage	Min. Front, Side + Rear Yard Setback	Maximum Front Yard Setback
Single/Two-family*	10,000 sf	5,000 sf	50'	5'	25'**
Multi-family	10,000 sf base, plus 2,500 sf per Dwelling Unit	5,000 sf base, plus 1,500 sf per Dwelling Unit	50'	5'	25'**

\* Maximum Lot Area for each single-family Dwelling Unit is 10,000 sf; it is also 10,000 sf for a two-family building

\* Maximum Front Yard Setback shall be reduced to 15' for single story buildings

- 2. Lots shall be configured so they are not bisected by a street or road.
- (h) Building Design Standards.
  - 1. Prior to issuance of a building permit, the Applicant shall provide the DEC with:
    - a. A letter of commitment that it will use US Environmental Protection Agency (EPA) Water Sense plumbing fixtures only and low/no Volatile Organic Compounds (VOC) paints, coatings, sealants adhesives and finishes;
    - b. A written description of the building's energy features, a compliance report by a Residential Energy Services Network (RESNET) certified Home Energy Rating System (HERS) rater demonstrating a HERS index rating of 60 or less, and a statement that the rating score is "based on plans."

## 5.02: continued

2. Prior to issuance of a Certificate of Occupancy, the Applicant shall:
  - a. Certify to the DEC that the building(s) include only EPA Water Sense plumbing fixtures and that it has used only low/no VOC paints, coatings, sealants adhesives and finishes.
  - b. Submit to the DEC a completed Energy Star Qualified Homes Thermal Bypass Inspection Checklist and final verification by a RESNET-certified rater of the HERS index rating of 60 or less.
- (i) General Design Standards.
  1. Prior to the granting of a Unified Permit, the Applicant shall demonstrate, to the satisfaction of the DEC that:
    - a. The project complies with the Devens By-laws and rules and regulations, as they may be interpreted or varied by 974 CMR 5.02(1).
    - b. The project complies with the Design Standards in 974 CMR 2.04(4)(b)1.c. through j. and 2.07: *Street and Road Design Standards*, even if no new street or road is proposed, unless a Design Standard is varied by 974 CMR 5.02(1).
  2. At least 60 days prior to issuance of a Certificate of Occupancy:
    - a. if the project is a condominium or involves a homeowner's association, Applicant shall provide the DEC with condominium or homeowner's association documents for review and approval as to compliance with the Open Space and Moderate-income dwelling unit (MIDU) requirements of 974 CMR 5.02(1).
    - b. If required by the DEC, Applicant shall provide the DEC with a maintenance plan and/or Conservation Restriction, for review and approval if consistent with 974 CMR 5.02(1).
- (j) Housing Requirements. Prior to the granting of a Unified Permit, the Applicant shall demonstrate, to the satisfaction of the DEC that:
  1. At least 15% of the Dwelling Units in the project shall include at least three bedrooms;
  2. The project includes a mix of residential building types (single-,two-, and multi-family) and number of bedrooms per dwelling unit; and
  3. The project includes recreational facilities, including playground(s).
- (k) Moderate-income Dwelling Unit (MIDU) Housing Requirements.
  1. Prior to the granting of a Unified Permit, the Applicant shall demonstrate, to the satisfaction of the DEC, that:
    - a. 22% of the Dwelling Units are Affordable in perpetuity to and occupied by Moderate-income households.
    - b. The sales price or rent of the MIDUs are Affordable (refer to 974 CMR 5.02(1)(c) for definitions of Moderate Income and Affordable).
    - c. MIDUs are dispersed throughout the project, have the same type, number of bedrooms, architectural styles and/or varied exterior architectural features, and interior amenities as the market-rate dwelling units, and the developer requests building permits and certificates of occupancy for MIDUs at the same time and in proportion to the market-rate dwelling units. For example, if the developer is requesting building permits for three market-rate units he shall also request at least one building permit for a MIDU.
  2. At least 60 days prior to obtaining a building permit, Applicant shall:
    - a. Provide the DEC with a draft regulatory agreement and deed rider for review and approval, the forms for which are those used in the DHCD Local Initiative Program (LIP), modified to apply to MIDU.
    - b. Demonstrate to the satisfaction of the DEC that the MIDU meet the following LIP requirements in the *DHCD Guidelines*, Updated May 2013, M.G.L. c. 40B *Comprehensive Permit Projects Subsidized Housing Inventory*, (the 40B Guidelines):
      - i. Articles III. C and D (Affirmative Marketing and Local Preference);
      - ii. Articles VI.B.4, 5, 6 and 7: (Design and Construction Standards, Income and Asset Limits (to be used for methodology, not pricing), Maximum Sales Prices and Rents, and Lease Provisions); and
      - iii. Article VI.E. (Initial Sales, Resales and Refinancing)

The DEC may promulgate a guidance document interpreting the sections of the 40B Guidelines as they are to be applied to Devens.

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- (l) Open Space and Park Design Standards.
  - 1. Objectives. Preserve the open space buffer between the Innovation Technology Business and Residential 1 Districts, facilitate connections to Rogers Field and USFWS Oxbow Wildlife Refuge Visitor Contact Station on Hospital Road, protect Steep Slopes identified on Slope Resource Area map, and provide new Open Space and Parks.
  - 2. Prior to the grant of a Unified Permit, the Applicant shall demonstrate, to the satisfaction of the DEC, that the project complies with the following:
    - a. Minimum Open Space per Dwelling Unit. Calculated by subtracting the Lot Area per dwelling unit of the project from the Minimum Lot Area required by the By-laws (15,000 sf). For example, if the Lot Area for a dwelling unit is 5,000 sf, the minimum open space per dwelling unit requirement is 10,000 sf. There is no minimum open space requirement for Multi-family dwelling units.
    - b. Park Requirement for Larger Projects. Projects larger than seven acres shall include in perpetuity a Park within the Area to Be Developed For Housing (*see* 974 CMR 5.02(1): *Figure 2*) of at least one continuous half-acre

**Figure 2: Park Requirement for Larger Projects**



- c. Open Space Proximity Requirement. All Dwelling Units shall be located within ¼ mile of Open Space that is publicly-accessible in perpetuity of at least 1/6 acre (as measured from the front door of each building to the nearest boundary of such Open Space).
    - d. The location, design, and uses proposed for the Open Space and the Park are consistent with the Goals and Objectives of 974 CMR 5.02(1).
    - e. The Open Space is owned and/or managed by:
      - i. The DEC, its successors and assigns or MassDevelopment, its successors and assigns; or
      - ii. A non-profit organization, whose principal purpose is the conservation or preservation of open space; or
      - iii. A homeowner's or condominium association or owner of one or more rental buildings.
- (2) Residential II (IRD II).
  - (a) Goals. To foster the creation of housing that:
    - 1. Provides access to open space;
    - 2. Is energy efficient;
    - 3. Promotes innovative design and smart growth;
    - 4. Furthers the Devens Re-use Plan and By-laws.
  - (b) Applicability. Applicants for approval of projects located on less than 25 acres of land in the Residential II zone may develop in accordance with these Innovative Development Residential II Zone regulations so long as they demonstrate, to the satisfaction of the Commission, that the project complies with all of 974 CMR 5.02(2)(c).
  - (c) General Requirements.
    - 1. All of the requirements of the Devens By-laws and Development Rules and Regulations except the minimum lot frontage requirement set forth in Article IX.F. of the By-laws.
    - 2. Minimum lot frontage of 50 feet.

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3. A compliance report which includes a Home Energy Rating System (HERS) index rating of 60 or less, a description of the building's energy features, and a statement that the rating score is "based on plans", shall be submitted, prior to issuance of a building permit.
4. Compliance with the requirements of the Energy Star Qualified Homes Thermal Bypass Inspection Checklist, as demonstrated by submission of a completed copy of the Checklist endorsed by a RESNET certified HERS rater (and the builder if required), prior to obtaining a Certificate of Occupancy.
5. Final verification of the HERS index rating of 60 or less verified by a RESNET certified HERS rater prior to the issuance of a certificate of occupancy.

5.03: General Housing

(1) Exterior Storage.

- (a) Junk, which is any worn out, castoff, or discarded articles or material that is ready for destruction or has been collected or stored for salvage or conversion to some use shall not be stored on residential lots.
- (b) No junk shall be stored in any front yard, whether screened or not.

(2) Vehicles.

- (a) No person shall park, store, leave or permit the parking, storing, or leaving of any motor vehicle of any kind which is in an abandoned, wrecked, dismantled, inoperative, rusted, junked or partially dismantled condition in open view upon any private property.
- (b) Recreational vehicles, camping trailers, and other large noncommercial vehicles shall be parked within a structure or in a lot's rear yard screened from any public way.
- (c) Unregistered Vehicles. A vehicle that does not bear a current license plate is deemed to be unregistered. Only one unregistered vehicle may be maintained on any residential lot and may be stored only in the rear yard screened from the public way or within a completely enclosed building.
- (d) Vehicle Maintenance. No disassembled vehicle shall be maintained outside a structure on any residential lot.

(3) Yard Sales. A yard sale is "the sale or offering for sale to the general public of over five items of personal property on any portion of a lot in a residential zoning district, whether within or outside any building." No more than one yard sale per month per household may be conducted. No off-premise signs may be erected for any yard sale.

(4) Kennels are defined in M.G.L. c. 140 § 136A as "one pack or collection of dogs on a single premises, whether maintained for breeding, boarding, sale, training, hunting or other purposes and including any shop where dogs are on sale, and also including every pack or collection of more than three dogs three months old or over owned or kept by a person on a single premises irrespective of the purpose for which they are maintained". Kennels shall not be established or maintained in any residential zoning district within Devens, however a "Shelter", a public animal control facility, or any other facility which is operated by MassDevelopment for the purpose of protecting animals from cruelty, neglect, or abuse is exempt from 974 CMR 5.00.

(5) Horses and 'live stock or fowls' (animals or fowls kept or propagated by the owner for food or as a means of livelihood; also deer, elk, cottontail rabbits and northern hares, pheasants, quail, partridge and other birds and quadrupeds determined by the department of fisheries, wildlife and environmental law enforcement to be wild and kept by, or under a permit from, said department in proper houses or suitable enclosed yards) may not be maintained on any residential lot less than two acres in size.

(6) Hot Tubs/Swimming Pools. Private outdoor hot tubs and swimming pools are regulated by International Code Council's *International Residential Code (2009) Chapter 42* and *Appendix G: Swimming Pools, Spas and Hot Tubs* and require a barrier or a fence, wall, a building wall or combination thereof which completely surrounds the swimming pool and/or hot tub and obstructs access to the pool and/or hot tub. If a portion of the barrier is visible from a public way, it shall be visually impermeable. Outdoor pools exceeding 18 inches in depth shall be protected by an enclosure to comply with the following:

5.03: continued

- (a) at least four feet in height from grade to top of fencing;
- (b) vertical openings not to exceed four inches;
- (c) chain link openings not to exceed two inches;
- (d) railings and posts to be on the interior of fencing and must be capable of withstanding a 150 pound load.

5.04: Home Occupations and Home Businesses

(1) Home occupations and businesses shall be clearly incidental and secondary to the use of the dwelling as a residence, shall be located within the dwelling unit, and shall not change the residential character of the premises. Home businesses and home occupations allow for local economic development, encourage the creation of new businesses, and to provide flexible or accessible working conditions for residents of Devens.

(2) The area utilized for the purpose of a home occupation or home business shall not exceed the smaller of 25% of the total floor area of the dwelling unit or 400 square feet. An accessory building may only be used for storage if permitted by the Director and shall be included in the total square footage allowed for the home occupation or business.

(3) No traffic shall be generated by such home occupation or home business in greater volumes than would normally be expected in a residential neighborhood.

(4) A single small pick-up truck (not to exceed ¾ ton) or van belonging to the resident business person may be parked on the lot in the rear yard or in the side yard set back from the street at least as far as the front line of the dwelling and screened from adjacent properties and ways, or stored within a structure.

(5) There shall be no exterior display or storage of goods or materials, and no exterior indication of the home business or occupation other than one non-illuminated identification sign complying with 974 CMR 6.00: *Sign Control*.

(6) Home occupations and businesses do not include the sale and/or repair of cars, trucks, or other vehicles or guns.

(7) There shall be no noise, vibration, glare, fumes, odors, or electrical interference beyond what normally occurs in a residential area.

(8) Approvals for home occupations and home businesses shall be valid for a period of three years and may be extended by applying for an extension prior to the expiration of the permit. Any significance expansion of or change in the home occupation or home business requires the submission of a written request prior to the expansion or change. Approval for the home business or home occupation is extinguished upon a change in ownership of the property.

(9) Home Occupations.

- (a) An application for a home occupation shall be made by filing a written request with the Director.
- (b) The Director may approve the application for a home occupation, approve with conditions, or find that the home occupation is a home business within 30 days of the filing of the application. The Director may deny an application if it is determined that the impacts of the home occupation on the surrounding neighborhood cannot be mitigated or if the home occupation negatively impacts residential character and quality of life in the neighborhood.

(10) Home Businesses.

- (a) An application for a home business shall be made by filing a written request with the Director.
- (b) In a home business, not more than one non-resident full-time employee, or equivalent thereof, may be employed. Non-resident employees in a home business shall be employed in a capacity supportive of the practice of the resident professional.

## 5.04: continued

- (c) Not more than three customers, clients, pupils, or patients for business or instruction shall be present at any one time. The Director shall establish allowable hours of operation for the business.
- (d) There shall be one parking space per each full-time equivalent employee plus the number determined by the Director sufficient to serve customers, clients, pupils, or patients in addition to the parking spaces required for the residence. Newly created parking spaces shall be located only in the side yard set back from the street at least as far as the front line of the dwelling or the rear yard and shall be screened from adjacent properties.
- (e) The Director may approve the application for a home business, approve with conditions, or find that the home business is of such impact that the proposal requires site plan review under 974 CMR 2.00: *Subdivision* within 30 days of the filing of the application. The Director may deny an application if it is determined that the impacts of the home business on the surrounding neighborhood cannot be mitigated, if vehicular or pedestrian traffic generated by the business exceed residential levels, or if the home business negatively impacts residential character and quality of life in the neighborhood.

5.05: Accessory Apartments

Accessory apartments are permitted in single family dwellings. Accessory apartments may be located in the same structure as the principal dwelling or in combination with space for a permitted home occupation or business, a garage, or other allowed accessory use, or as a separate structure itself, provided that the total gross square feet of the accessory apartment, whether within the same structure or a separate one, is limited to 25% of the floor area of the principal dwelling. Dwellings with accessory apartments shall retain the appearance of single-family dwellings. An accessory apartment within the dwelling is a Level One permit, an accessory apartment in a detached structure is a Level Two permit.

5.06: Accessory Structures(1) Historic District.

- (a) Garages are permitted on residential lots within the Historic District in accordance with the Aspen Square Management Garage Master Plan (DEC Record of Decision dated December 18, 2001).
- (b) One shed per lot within the Devens Historic District (974 CMR 7.09: *Appendix*) may be permitted by the DEC without MHC approval, provided it meets all of the following requirements:
  1. no larger than 120 sq. ft.;
  2. not placed on permanent foundations;
  3. located between the rear property line and a line established by the rear of the principal building on the lot;
  4. not visible from any public street;
  5. Located at least five feet from both rear and side lot lines.

(2) Residential Districts (Contributing Historic and Non-historic District Residential Lots). All accessory buildings shall be located between the rear property line and a line established by the rear of the principal building on the lot and shall be located at least five feet from both rear and side lot lines. Accessory buildings shall not cover more than 20% of the area of the rear yard.

(3) Fencing. In all Residential Districts, fences shall not exceed six feet in height and shall be erected so that the finished side of the fence faces the abutting property. Fence locations shall not create visual obstructions that would restrict the safe movement of pedestrians and vehicles on adjacent streets.

5.07: Severability

If any provision of 974 CMR 5.00 or the administration thereof shall be held unconstitutional, invalid or void, it shall not affect any other provision of 974 CMR 5.00 or the administration thereof.

REGULATORY AUTHORITY

974 CMR 5.00: St. 1993, c. 498.

NON-TEXT PAGE