**CHAPTER 40R LOCAL STARTER HOME ZONING BYLAW GUIDANCE DOCUMENT**

**OVERVIEW**

**NOTE: Proposed Starter Home Zoning Bylaws must conform substantially to the sample bylaw with all changes redlined (tracked electronically) to the sample bylaw and any changes explained.**

 This document has been developed by the Department of Housing and Community Development (DHCD) to assist communities in drafting Starter Home zoning bylaws in accordance with M.G.L. chapter 40R (Chapter 40R). DHCD has adopted regulations, 760 CMR 59.00 (the 40R Regulations), that expand upon the requirements of Chapter 40R for the submission of applications and the approval of both Starter Home Zoning and Smart Growth Zoning Overlay Districts under Chapter 40R. Any capitalized terms not defined in this document, shall have the meaning given in the 40R Regulations.

 With the 2016 statutory amendments, Chapter 40R encourages communities to create compact residential Starter Home Zoning Overlay Districts (SHZOD), including a substantial percentage of Income-restricted housing units, to be located near transit stations, in Areas of Concentrated Development such as existing city and town centers, and in other Highly Suitable Locations. Projects must be developable under the community’s Starter Home Zoning adopted under Chapter 40R, either purely As-of-right or through an As-of-right Plan Review process as provided for in the corresponding definition contained in the sample bylaw below. Upon DHCD’s review and approval of a local zoning overlay district, a community becomes eligible for payments administered by DHCD.

 DHCD has developed a sample zoning bylaw, with accompanying comments, that addresses the full range of issues that must be included in a community’s Starter Home Zoning. The sample bylaw is divided into two main parts with the first containing provisions that apply to all SHZODs and the second containing the establishment, delineation and all other provisions that are specific to a particular SHZOD. DHCD has found that this approach minimizes redundancy and/or extensive amendments should a community decide to establish additional SHZOD. DHCD expects municipalities to submit proposed bylaws redlined against the sample bylaw. All changes from the language of the sample bylaw shall be redlined and explained. Although municipalities may dispense with some of the sample bylaw’s provisions, DHCD has highlighted those provisions which are required to be included in the municipal bylaw. In some specific instances, highlighted in the comments, DHCD requires either these specific provisions or language of substantially equivalent effect. Following the sample bylaw will expedite the DHCD review process. The following is an overview of the sample bylaw:

**Part A: General Provisions that apply to all Starter Home Zoning Districts**

**Section A.1 and A.2: Purpose and Definitions**

The sample bylaw references Chapter 40R and its housing and Smart Growth goals for Starter Homes in Section A.1, as well as other applicable local purposes. Section A.2 contains specific definitions relating to the sample text; other definitions should be included as necessary. Note that under the 40R Regulations, the Starter Home Zoning provisions must be in an all-inclusive, separate section of the zoning ordinance or bylaw.

**Sections A.3 and A.4: Overlay District, Applicability**

The sample bylaw contains provisions clarifying the general scope of any SHZOD and any respective sub-districts, and the relationship of the Starter Home Zoning to underlying provisions of the local zoning bylaw. Consistent with Chapter 40R, the sample bylaw states that a property owner may either develop a Project in accordance with the requirements of the Starter Home Zoning, or in accordance with the requirements of the regulations for use, dimension, and all other provisions of the zoning bylaw governing the underlying zoning district(s).

**Section A.5: Permitted Uses**

In addition to allowing for different types of Starter Homes and the option of allowing Accessory Dwelling Units, SHZODs can allow for other types of uses including non-residential and mixed- uses. However, DHCD’s sample bylaw does not address these additional uses. If a Municipality wishes to allow for mixed-use or commercial projects, please contact DHCD for additional guidance.

**Section A.6: Income Restriction**

Chapter 40R requires that under the Starter Home Zoning, at least 20% of all Starter Homes, not including Accessory Dwelling Units, constructed as part of a Project be Income-restricted to households at or below 100% of Area Median Income (AMI). Chapter 40R also requires mechanisms to ensure effective monitoring and enforcement. DHCD has developed detailed language in Section A.6 of the sample bylaw to address these statutory requirements; the Starter Home Zoning must contain these provisions, or language of substantially equivalent effect.

**Sections A.7 and A.8: Dimensional, Density, and Parking Requirements - General**

The sample bylaw includes recommended text, while leaving the actual physical requirements within the District (and any sub-districts) to be defined by each community. The one absolute requirement imposed under Chapter 40R is a minimum residential density: the Starter Home Zoning must allow at least 4 Starter Homes per acre of Developable Land. The Starter Home Zoning may provide for different sub-districts with different types of Starter Homes (e.g., attached or detached) in each, so long as each sub-district meets the minimum density standards of the 40R Regulations and Chapter 40R.

**Sections A.9 through A.12: Plan Approval Process**

A community may elect to subject some or all Projects within a District to a Plan Approval process. Chapter 40R and the Regulations spell out detailed procedural and substantive requirements for the Plan Approval process, which are reflected in these sections of the sample bylaw. Therefore, DHCD will require the Starter Home Zoning to contain these provisions, or language of substantially equivalent effect. Among other related issues, the sample bylaw addresses the phasing and segmenting of Projects and may allow the Plan Approval Authority (PAA) to issue waivers from dimensional and other requirements (but not those pertaining to the Income restrictions).

**Sections A.13 and A.14: Low Impact Development Techniques and Design Standards - General**

As part of the Plan Approval process, Chapter 40R allows the PAA to apply Design Standards, to ensure that a Project is complementary to adjacent buildings and structures and provides for higher density quality development consistent with design features traditionally found in densely settled areas of the community, if any. The Design Standards are subject to DHCD’s review and approval; DHCD may disallow a design standard as unduly restrictive if it would add unreasonable costs or unreasonably impair the economic feasibility of Projects within the District or if the standard is not sufficiently clear such that it conflicts with the requirement that the Starter Home Zoning be As-of-right. Additionally, the Starter Home Zoning must utilize best practices for roadway and subdivision design and Low Impact Development Techniques consistent with DHCD guidance.

**Part B: Establishment and Delineation of the Starter Home Zoning Overlay Districts**

**Section B.1: [Name of District] Starter Home Zoning Overlay District**

This part of the sample bylaw provides for the establishment and delineation of individual SHZODs and all other provisions, including permitted uses (including sub-districts); dimensional, density, and parking requirements; and design standards, that are specific to a particular SHZOD. Communities should insert a new section for each additional SHZOD that will be subject to different provisions.

**SAMPLE ZONING BYLAW WITH COMMENTS**

*COMMENTS: The 40R Regulations state that the Starter Home Zoning must be all-inclusive. This means that the development of a Project within the District pursuant to the Starter Home Zoning shall be governed solely by the Starter Home Zoning, without reference to any standards or procedures contained elsewhere in the Zoning Bylaw.*

**SECTION [x]: STARTER HOME ZONING OVERLAY DISTRICTS (SHZODs)**

1. **General Regulations that apply to all Starter Home Zoning Districts**

**1. PurposeS**

The purpose(s) of Starter Home Zoning Overlay Districts is/are:

1. to encourage the development of Starter Homes in accordance with the purposes of G. L. Chapter 40R.

[add other objectives as applicable]

*COMMENTS: Since the Starter Home Zoning must be all-inclusive – that is, no other provisions of the Zoning Bylaw are applicable to a Project being developed pursuant to the Starter Home Zoning within a District -- DHCD recommends that the Starter Home Zoning contain a purpose section. The purpose section should, at minimum, state that the Starter Home Zoning will encourage the development of Starter Homes in accordance with the purposes of G.L. Chapter 40R.*

**2. Definitions**

For purposes of this Section[x], the following definitions shall apply. To the extent that there is any conflict between the definitions set forth in this Section and the Governing Laws, the terms of the Governing Laws shall govern.

**Accessory Dwelling Unit** - a dwelling unit of 600 square feet or less on the same lot as a Starter Home.

**Applicant** – the individual or entity that submits a Project for Plan Approval.

**Area Median Income –** the area-wide median income as determined by HUD, adjusted for household size and using HUD's rules for attribution of income to assets.

**As-of-right** - a use allowed under Section [x]A.5 without recourse to a special permit, variance, zoning amendment, or other form of zoning relief. A Project that requires Plan Approval by the PAA pursuant to Sections A.9.0 through A.14.0 shall be considered an As-of-right Project**.**

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

**Design Standards** – means provisions of Section [x]A.14 made applicable to Projects within the SHZOD that are subject to the Plan Approval process.

**Designating Official**—the PAA, chief executive of the Municipality, or other municipal official who designates the Monitoring Agent pursuant to Section [x]A.6.2.

**Eligible Household** - an individual or household whose annual income is less than or equal to 100 percent of the Area-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.

*Comments: The Starter Home Zoning may further decrease the maximum income limits of eligible households (below 100 percent of the Area Median Income as determined by HUD). The Municipality shall be required to prove to DHCD in its submission that any such decrease will not unduly restrict opportunities for development within the proposed District under the Starter Home Zoning consistent with G.L c. 40R, § 6(e), which means that the decrease may not impair the economic feasibility of proposed Projects. See 760 CMR 59.04(1)(e)3.*

**Governing Laws** - G.L. Chapter 40R, 760 CMR 59.00, and DHCD administrative guidance relating to G.L Chapter 40R.

**Income-Restricted Homeownership Unit** - an Income-Restricted housing unit required to be sold to and occupied by an Eligible Household.

**Income Restriction** – a restriction imposed on a housing unit which contains affordability provisions consistent with the Governing Laws with respect to Starter Homes and the requirements of Section [x]A.6.5 of this Bylaw.

**Income-Restricted Rental Unit** - an Income-Restricted housing unit required to be rented to and occupied by an Eligible Household.

**Low Impact Development Technique** - development techniques suitable to a particular site that protect the natural features of the site, including, without limitation, (a) natural resource oriented site design, (b) appropriately scaled and decentralized stormwater management techniques that limit the rate of off-site storm water runoff (both peak and non-peak flows) to levels substantially similar to natural hydrology (or, in the case of a redevelopment site, that reduce such flows from pre-existing conditions), through means including, bioretention/rain gardens, infiltration/permeable pavements, stormwater planters, vegetated swales, vegetated buffers, cisterns, rain barrels, and green roofs; and (c) appropriately scaled roads.

**Monitoring Agent or Administering Agent** – the local housing authority or other qualified housing entity designated by the Designating Official, pursuant to Section [x]A.6.2, to review and implement the Income Restriction requirements affecting Projects under Section [x]A.6.0.

**Municipality – the [City] [Town] of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.**

**PAA Regulations** – administrative rules and regulations adopted by the PAA pursuant to Section [x]A.9.3, but not including any ordinance or by-law adopted by the Municipality. Under the 40R Regulations, any change in the PAA Regulations must be reviewed and approved by DHCD.

**Plan Approval** - standards and procedures which [certain categories of] Projects in the SHZOD must meet pursuant to Sections [x]A.9.0 through [x]A.14.0 and the Governing Laws.

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

**Plan Approval Authority (PAA)** - the local approval authority authorized under Section [x]A.9.2 to conduct the Plan Approval process for purposes of reviewing Project applications and issuing Plan Approval decisions within the SHZOD.

**Project or Development Project** - a project that consists solely of residential Starter Homes [and Accessory Dwelling Units, if permitted], parking, and accessory uses, as further defined in Section [x]A.5.1 and undertaken within the SHZOD in accordance with the requirements of this Section [x].

**Starter Home** - a single-family home not exceeding 1,850 square feet in heated living area, not including any associated Accessory Dwelling Unit.

**Starter Home Zoning Overlay District (SHZOD)** – the Starter Home Zoning Overlay District established in accordance with this Section [x].

**Statutory Affordable Housing Restriction** – an affordable housing restriction meeting statutory requirements in G.L. Chapter 184, Section 31, and which contains Income Restrictions.

**Zoning Bylaw** - the Zoning Bylaw of the Municipality.

[add other definitions as required, either here or in the PAA Regulations]

*COMMENTS: Because of the requirement in the 40R Regulations that the local Starter Home Zoning must be all-inclusive, it must contain a definitions section with all defined terms, rather than referring the reader to other sections of the local zoning code. In particular, to satisfy the requirements of Chapter 40R and the 40R Regulations regarding Income-Restricted housing, the following definitions are required by DHCD:*

* *Eligible Household*
* *Income Restriction*
* *Income-Restricted Homeownership Unit*
* *Income-Restricted Rental Unit*
* *Monitoring Agent (Administering Agency)*
* *Statutory Affordable Housing Restriction*

*The sample bylaw includes certain definitions required by the text. Other definitions are likely to be required (for example, terms used in relation to the use and dimensional provisions of Sections [x]A.5 and [x]A.7)*

**3. Applicability of SHZOD**

**3.1 Applicability of SHZODs.** An applicant may seek development of a Project located within a SHZOD in accordance with the provisions of the Governing Laws and this Section [x], including a request for Plan Approval by the PAA, if necessary. In such case, notwithstanding anything to the contrary in the Zoning Bylaw, such application 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.

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

**4.2 Underlying Zoning.** SHZODs are overlay districts superimposed on all underlying zoning districts. The regulations for use, dimension, and all other provisions of the Zoning Bylaw governing the respective underlying zoning district(s) shall remain in full force, except for those Projects undergoing development pursuant to this Section [x]. Within the boundaries of a SHZOD, a developer may elect either to develop a Project in accordance with the requirements of the Starter Home Zoning, or to develop a project in accordance with requirements of the regulations for use, dimension, and all other provisions of the Zoning Bylaw governing the underlying zoning district(s).

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

**4.3 Administration, Enforcement, and Appeals.** The provisions of this Section [x] shall be administered by the building commissioner, except as otherwise provided herein. Any legal appeal arising out of a Plan Approval decision by the PAA under Sections [x]A.9 through [x]A.14 shall be governed by the applicable provisions of G. L. Chapter 40R. Any other request for enforcement or appeal arising under this Section [x] shall be governed by the applicable provisions of G. L. Chapter 40A.

**5. Permitted Uses - general**

The following uses are permitted As-of-Right for Projects within the all SHZODs unless otherwise specified under the corresponding section of the District-specific requirements.

* 1. **Residential Projects.**  A Residential Project within the SHZOD may include:
1. Starter Homes;
2. Accessory Dwelling Units;

c) Parking accessory to any of the above permitted uses, including surface and garage-under parking; and

d) Accessory uses customarily incidental to any of the above permitted uses.

[Insert additional text for any additional permitted uses or if there are sub-districts within the District, and the permitted residential uses vary among the sub-districts.]

*COMMENTS: Chapter 40R and the 40R Regulations state that**Projects must be permitted As-of-right, although they may be subject to Plan Approval by the PAA (see definition of “As-of-right” in Section [x]A.2 above). If there are sub-districts within the District, the Starter Home Zoning must specify which types of residential uses are allowed within each sub-district (see also comment box below the definition of Eligible Household).*

*Note that Chapter 40R and the 40R Regulations state that, within a Substantially Developed sub-district, the Starter Home Zoning must permit the As-of-right construction of infill housing on existing lots and of additional housing units in existing residential buildings or additions thereto or replacements thereof. Drafters should consult with DHCD on this and other issues if the Starter Home Zoning will include provisions for a Substantially Developed sub-district. See also Section [x]A.7.2.*

**6. Housing and Housing Income-Restriction**

**6.1 Number of Income-Restricted Housing Units**. For all Projects, not less than twenty percent (20%) of housing units constructed shall be Income-Restricted. For purposes of calculating the number of Income-Restricted units required within a Project, any fractional unit shall be deemed to constitute a whole unit.

*COMMENTS: Chapter 40R and the 40R Regulations require that, under the Starter Home Zoning, not less than 20 percent of all housing units constructed within Projects shall be Income-restricted. The 20% Income-restricted standard applies to all Projects developed under the Starter Home Zoning and subject to this Section [x]A.6. Therefore, the Starter Home Zoning must contain the above language.*

*With DHCD approval, the Starter Home Zoning may require a higher percentage of Income-restricted units or a percentage of affordable units as defined in the Governing Laws; however, DHCD must approve any such provisions to ensure that they will not “unduly restrict” opportunities for development within the proposed District by impairing the economic feasibility of proposed Projects. Note that for the purposes of satisfying the twenty percent (20%) Income restriction requirement, any units, including Income-restricted units, in a project located within the geographic boundaries of the District, and which receives a project eligibility letter under M.G.L. c.40B after the date upon which the 40R Application was submitted to DHCD, shall be counted toward the twenty percent (20%) Income restriction requirement.*

*The income threshold for Income-restricted housing units is one hundred percent (100%) of Area Median Income. With DHCD approval, Municipalities may impose a more strict income threshold at a lower percentage of Area median Income in a Project for purposes of counting housing units on the Subsidized Housing Inventory; however, DHCD must approve any such provisions to ensure that they will not impair the economic feasibility of proposed Projects.*

**6.2 Monitoring Agent**. A Monitoring Agent which may be the local housing authority or other qualified housing entity shall be designated by the Designating Official. In a case where the Monitoring Agent cannot adequately carry out its administrative duties, upon certification of this fact by the Designating Official or by DHCD such duties shall devolve to and thereafter be administered by a qualified housing entity designated by the Designating Official. In any event, such Monitoring Agent shall ensure the following, both prior to issuance of a building permit for a Project within the SHZOD, and on a continuing basis thereafter, as applicable:

 1. the calculation of sale prices of Income-Restricted Homeownership Units and rents of Income-Restricted Rental Units are consistent with this Section [x]A.6 and the terms of the applicable Statutory Affordable Housing Restriction;

 2. the determination of eligibility of households applying for Income-Restricted units is consistent with this Section [x]A.6 and the terms of the applicable Statutory Affordable Housing Restriction;

 3. the affirmative fair housing marketing and resident selection plan conforms to all applicable requirements; has been approved by DHCD, and is properly administered;

 4. Eligible Households are selected in accordance with the applicable affirmative fair housing marketing and resident selection plan, which provides for the appropriate determination of unit size and preference for each household; and

5. a Statutory Affordable Housing Restriction meeting the requirements of this Section [x]A.6 is approved by DHCD; is executed and recorded with the appropriate registry of deeds; and is fully enforced during its term.

*COMMENTS: Chapter 40R and the 40R Regulations state that the Starter Home Zoning shall contain provisions to ensure effective monitoring and enforcement of the affordable housing restriction during the term of Income restriction. Therefore, the Starter Home Zoning must contain this provision****,*** *or language of substantially equivalent effect.*

**6.3 Submission Requirements.** As part of any application for Plan Approval for a Project within the SHZOD submitted under Sections [x]A.9through [x]A.14 (or, for Projects not requiring Plan Approval, prior to submission of any application for a building permit), the Applicant must submit the following documents to the PAA and the Monitoring Agent:

1) documentation that the Project complies with the cost and eligibility requirements of Section [x]A.6.4:

2) Project plans that demonstrate compliance with the requirements of Section [x]A.6.5; and

3) a form of Statutory Affordable Housing Restriction that satisfies the requirements of Section [x]A.6.6.

These documents, in combination, shall be submitted with an application for Plan Approval (or, for Projects not requiring Plan Approval, prior to submission of any application for a building permit), and shall include details about construction related to the provision, within the development, of units that are accessible to individuals with disabilities and units that are appropriate for diverse populations, including households with children, other households, individuals, households including individuals with disabilities, and the elderly.

*COMMENTS: Chapter 40R and the 40R Regulations require within a District the development of housing which is appropriate for a diverse population, including households with children, other households, individuals, households including individuals with disabilities, and the elderly. Therefore, the Starter Home Zoning must contain this provision****,*** *or language of substantially equivalent effect.*

**6.4 Cost and Eligibility Requirements.** Income-Restricted units shall comply with the following requirements:

1. Income-Restricted units shall be rented or sold, as applicable, to and occupied only by Eligible Households.

2. For an Income-Restricted Rental Unit, the monthly rent payment, including applicable utility allowances, shall not exceed 30 percent of the maximum monthly income permissible for an Eligible Household, assuming a family size equal to the number of bedrooms in the unit plus one, unless another affordable housing program methodology for calculating rent limits as approved by DHCD applies.

3. For an Income-Restricted Homeownership Unit the monthly housing payment, including mortgage principal and interest, private mortgage insurance, property taxes, condominium and/or homeowner's association fees, and insurance, shall not exceed 30 percent of the maximum monthly income permissible for an Eligible Household, assuming a family size equal to the number of bedrooms in the unit plus one.

Prior to the granting of any [building permit or Plan Approval] for a Project, the Applicant must demonstrate:

1. to the satisfaction of the Monitoring Agent, that the calculation of the rents or purchase prices, as applicable, of Income-Restricted units is consistent with state and federal affordability guidelines that are applicable to the Municipality; and
2. to the satisfaction of the Monitoring Agent and the PAA that the Project’s affirmative fair housing marketing and resident selection plan and Statutory Affordable Housing Restriction have been approved by DHCD.

*COMMENTS: The Starter Home Zoning must contain this provision,**or language of substantially equivalent effect. Chapter 40R and the 40R Regulations require that an affordable housing restriction ensure an Income-restricted unit is occupied by an eligible household paying an Income-restricted rent or Income-restricted purchase price during the term of the restriction. The Starter Home Zoning must also contain provisions specifying the method by which such Income-restricted rents or Income-restricted purchase prices are computed.*

**6.5 Design and Construction.** Income-Restricted units shall be finished housing units. Income-Restricted units shall be equitably integrated and dispersed throughout the Project of which they are a part, across each style and size of Starter Home included in the Project and be comparable in initial construction quality, size and exterior design to the other housing units in the Project. Unless expressly required otherwise under one or more applicable state or federal housing subsidy programs, the bedroom-per-unit average for the Income-Restricted Housing must be equal to or greater than the bedroom-per-unit average for the unrestricted/market-rate units.

*COMMENTS: Pursuant to the 40R Regulations, Income-restricted units must be equitably integrated and dispersed throughout the District and Project. The Starter Home Zoning must contain this provision, or language of substantially equivalent effect. In order for units to be considered Bonus Units for the purposes of the Governing Laws, (1) each Project must contain a proportionate share of the required percentage of Income-Restricted units across unit sizes and locations, and (2) the units must be equitably distributed throughout each Project in the District across unit sizes and locations.*

**6.6 Statutory Affordable Housing Restriction**. Each Project shall be subject to a Statutory Affordable Housing Restriction which is recorded with the appropriate registry of deeds or district registry of the Land Court and which contains the following:

1. Specification of the term of the Statutory Affordable Housing Restriction which shall be no less than thirty years;

2. The name and address of the Monitoring Agent with a designation of its power to monitor and enforce the Statutory Affordable Housing Restriction;

3. With respect to homeownership Projects or portions of Projects, a description of the Income-Restricted Homeownership Unit by address and number of bedrooms; the Statutory Affordable Housing Restriction shall apply to the identified Income-Restricted Homeownership Units.

4. With respect to rental Projects or portions of Projects, a description of the overall quantity, initial unit designations and number of bedrooms, and number of bedroom types of Income-Restricted Rental Units; the Statutory Affordable Housing Restriction shall apply to a percentage of rental units of a rental Project with the initially designated Income-Restricted Rental Units identified, and able to float subject to specific approval by DHCD in accordance with the Project’s affirmative fair housing marketing and resident selection plan and any applicable DHCD guidance.

5. Reference to an affirmative fair housing marketing and resident selection plan, to which the Income-Restricted units are subject, and which includes an affirmative fair housing marketing program, including public notice and a fair resident selection process. Such plan shall include a preference based on need for number of bedrooms in a unit consistent with applicable DHCD guidance;

6. A requirement that Eligible Household buyers or tenants will be selected at the initial sale or rental, as applicable, and upon all subsequent sales and rentals from a list of Eligible Households compiled in accordance with the affirmative fair housing marketing and resident selection plan;

7. Reference to the formula pursuant to which the rent of an Income-Restricted Rental Unit or the maximum resale price of an Income-Restricted Homeownership Unit will be set;

8. A requirement that only an Eligible Household may reside in Income-Restricted units and that notice of any lease of any Income-Restricted Rental Unit shall be given to the Monitoring Agent;

9. A requirement for effective monitoring and enforcement of the terms and provisions of the Statutory Affordable Housing Restriction by the Monitoring Agent;

10. A requirement that the Statutory Affordable Housing Restriction on an Income-Restricted Homeownership Unit shall run in favor of the Monitoring Agent and the Municipality, in a form approved by DHCD, and shall limit initial sale and re-sale to an Eligible Household which shall occupy the unit as the Household’s primary residence;

11. A requirement that the Statutory Affordable Housing Restriction on Income-Restricted Rental Units in a rental Project shall run with the rental Project and shall run in favor of the Monitoring Agent and the Municipality, in a form approved by DHCD, and shall limit rental and occupancy to an Eligible Household;

12. A requirement that the owner[s] or manager[s] of Income-Restricted Rental Unit[s] shall file an annual report to the Monitoring Agent, in a form specified by the Monitoring Agent, certifying compliance with the Income Restriction provisions of this Bylaw and the Statutory Affordable Housing Restriction and containing such other information as may be reasonably requested in order to ensure compliance with the Statutory Affordable Housing Restriction and this Bylaw; and

13. A requirement that residents in Income-Restricted units provide such information as the Monitoring Agent may reasonably request in order to ensure compliance with the Statutory Affordable Housing Restriction and this Bylaw.

*COMMENTS: Chapter 40R and the 40R Regulations state that the Starter Home Zoning shall contain provisions to ensure that there shall be effective monitoring and enforcement of the Statutory Affordable Housing Restriction during the term of Income restriction. Therefore, the Starter Home Zoning must contain this provision, or language of substantially equivalent effect.*

**6.7 Costs of Affirmative Fair Housing Marketing and Resident Selection Plan.** The affirmative fair housing marketing and resident selection plan may make provision for payment by the Applicant of reasonable costs to the Monitoring Agent to develop, advertise, and maintain the list of Eligible Households and to monitor and enforce compliance with affordability requirements consistent with the Statutory Affordable Housing Restriction.

*COMMENTS: To ensure that the costs of the marketing and enforcement measures are not unduly burdensome, the Starter Home Zoning must contain this provision, or language of substantially equivalent effect.*

**6.8 No Age Restrictions.** Pursuant to 760 CMR 59.04(1)(i)2.ii, no restrictions on age shall be imposed in any Project developed under this Bylaw.

*COMMENTS: Pursuant to Chapter 40R and the 40R Regulations, age restrictions cannot be imposed in any Project developed under the Starter Home Zoning.*

**6.9 3-Bedroom Requirement.** At least 50 percent of the Starter Homes to be developed in a proposed Starter Home Zoning District, excluding Accessory Dwelling Units, must contain 3 or more bedrooms. These 3 or more-bedroom units shall be equitably integrated and dispersed among the Starter Homes throughout the SHZOD and within each Project including by unit type and construction phase.

*COMMENTS: This provision is required under 760 CMR 59.04(1)(d)4.c. For SHZODs approved under the expedited review process, this provision must require that 100% of the Starter Homes contain at least three bedrooms.*

**6.10 Phasing.** For any Project that is approved and developed in phases in accordance with Section [x]A.9.4, the percentage of Income-Restricted units in each phase shall be at least equal to the minimum percentage of Income-Restricted units required under Section [x]A.6.1. Where the percentage of Income-Restricted units is not uniform across all phases, the unit dispersal and bedroom proportionality requirements under Section [x]A.6.5 shall be applied proportionate to the Income-Restricted units provided for in each respective phase.

*COMMENTS: To address the proportionality requirements of the 40R Regulations, the Starter Home Zoning must contain this provision, or language of substantially equivalent effect.*

**6.11 No Waiver.** Notwithstanding anything to the contrary herein, the Income-Restriction provisions in this Section [x]A.6 shall not be waived unless expressly approved in writing by DHCD.

*COMMENTS: The 40R Regulations state that the Income restriction requirements may not be waived as part of the Plan Approval process for a Project. Therefore, the Starter Home Zoning must contain this provision.*

**7. Dimensional and Density Requirements**

**7.1 Table of Requirements.** Notwithstanding anything to the contrary in this Bylaw, the dimensional requirements applicable in the SHZOD are as follows:

[Insert applicable dimensional requirements. Insert additional provisions if there are sub-districts within the District, and the dimensional requirements vary among the sub-districts.]

*COMMENTS: The Starter Home Zoning shall set out the dimensional, use, parking, and other standards applicable to Projects within the District including but not limited to height limits, setbacks, lot areas, lot dimensions, unit to lot ratios, floor area ratios, lot coverage ratios, and open space ratios. (For discussion of parking ratios, parking locations, and roadway design standards, see Sections [x]A.8 and [x]A.14.) The Starter Home Zoning must provide for a minimum allowable As-of-right density of at least 4 Starter Home units per acre for Developable Land zoned for single-family residential use.*

*If the SHZOD is anticipated to contain only a single Project, then restricting the total number of residential units developable within the SHZOD is permissible, provided that the maximum number will permit the SHZOD to achieve the minimum applicable As-of right density required. Additionally, the Starter Home Zoning must provide for utilization of either Cluster Development or Low Impact Development Techniques.*

*To qualify for expedited review, the 40R Regulations provide that the Starter Home Zoning shall (1) allow for no more than 30 Starter Homes in a District and (2) require each Starter Home to contain at least 3 bedrooms.*

**8. Parking Requirements - General**

These parking requirements are applicable to Projects in all SHZOD unless specified otherwise under any alternative or supplementary provisions under the corresponding District-specific requirements.

**8.1 Number of parking spaces.** Unless otherwise approved by the PAA, the following minimum/maximum numbers of off-street parking spaces shall be provided by use, either in surface parking, within garages or other structures [or on-street:]:

[Insert applicable parking requirements]

The PAA may allow for a decrease in the required parking as provided in Sections [x]A.8.2 and [x]A.8.3 below.

COMMENTS: To support the Starter Home goals of Chapter 40R and encourage alternatives to automobile travel, DHCD encourages communities to consider provisions limiting parking with maximums as an alternative or supplement to setting minimum requirements. Where minimum requirements are deemed necessary, DHCD encourages allowing the reduction of minimum parking requirements beyond what is commonly required. Particularly for locations near transit stations, defining maximum as well as minimum parking requirements can further support the Starter Home goals of Chapter 40R.

**8.2 Shared Parking.** Minimum parking requirements above may be reduced by the PAA through the Plan Approval process (or, for Projects not requiring Plan Approval, prior to submission of any application for a building permit), if the applicant can demonstrate that shared spaces will meet parking demands by using accepted methodologies (such as the Urban Land Institute Shared Parking Report, or ITE Shared Parking Guidelines.

COMMENTS: Where minimum requirements are deemed necessary, DHCD encourages allowing the reduction of minimum parking requirements if parking is shared by different uses.

**8.3 Reduction in parking requirements.** Notwithstanding anything to the contrary herein, any minimum required amount of parking may be reduced by the PAA through the Plan Approval process (or, for Projects not requiring Plan Approval, prior to submission of any application for a building permit), if the applicant can demonstrate that the reduced amount of parking will not cause excessive congestion, endanger public safety, or that lesser amount of parking will provide positive environmental or other benefits, taking into consideration:

a) the availability of surplus off street parking in the vicinity of the use being served and/or the proximity of a bus stop or transit station;

b) the availability of public or commercial parking facilities in the vicinity of the use being served;

c) shared use of off street parking spaces serving other uses having peak user demands at different times;

d) occupancy restrictions which are likely to result in a lower level of motor vehicle usage;

e) impact of the parking requirement on the physical environment of the affected lot or the adjacent lots including reduction in green space, destruction of significant existing trees and other vegetation, destruction of existing dwelling units, or loss of pedestrian amenities along public ways; and

1. such other factors as may be considered by the PAA.

COMMENTS: DHCD encourages communities to consider provisions allowing the reduction of minimum parking requirements.

 **9.** **Plan APPROVAL of projects: general provisions**

*The 40R Regulations state that the Plan Approval provisions of the Starter Home Zoning and/or any separate Design Standards must be clearly written, fairly and consistently applied, and allow for flexibility and creativity, consistent with the goals of Chapter 40R. In addition, to qualify for expedited review for SHZODs pursuant to 760 CMR 59.03(2)(a)6.a., unless the 40R Application is accompanied by a Developer Certificate of Feasibility, Design Standards shall address no more than the size and location of garages/carports, decks, or other non-living area structures associated with a Starter Home or Accessory Dwelling Unit, as applicable, and the basic roof style. The contents of the following Sections [x]A.9 through [x]A.14 are intended to satisfy these regulatory requirements. For any community that subjects Projects to Plan Approval, the Starter Home Zoning must contain these provisions, or language of substantially equivalent effect.*

**9.1 Plan Approval.** An application for Plan Approval shall be reviewed by the PAA for consistency with the purpose and intent of Sections [x]A.9 through [x]A.14. Such Plan Approval process shall be construed as an As-of-right review and approval process as required by and in accordance with the Governing Laws.

**[If the Municipality wants separate categories of Projects to be subject to Plan Approval, then insert:**

The following categories of Projects shall be subject to the Plan Approval process:

a) Any Project providing more than [\_\_] residential units.

*COMMENTS: The 40R Regulations state that if the Starter Home Zoning provides for Plan Approval of Projects within the District, it shall specify the categories of Projects that will be subject to Plan Approval (defined by size, type, or otherwise). The sample bylaw provides an example of a project-scale threshold of review for a Starter Home Project.*

**9.2 Plan Approval Authority (PAA).** The [name of local approval authority], consistent with G.L. Chapter 40R and 760 CMR 59.00, shall be the PAA, and it is authorized to conduct the Plan Approval process for purposes of reviewing Project applications and issuing Plan Approval decisions within the SHZOD.

*COMMENTS: The 40R Regulations state that if the Starter Home Zoning provides for Plan Approval of Projects within the District, it shall specify the PAA. Therefore, DHCD will require the Starter Home Zoning to contain this provision if Projects are subject to Plan Approval.*

**9.3 PAA Regulations.** The PAA may adopt administrative rules and regulations relative to Plan Approval. Such rules and regulations and any amendments thereof must be approved by DHCD before taking effect.

COMMENTS: If the Starter Home Zoning empowers the PAA to adopt rules and regulations for the Plan Approval of Projects, such regulations must be dated and approved by DHCD.

**9.4 Project Phasing.** An Applicant may propose, in a Plan Approval submission, that a Project be developed in phases subject to the approval of the PAA, provided that the submission shows the full buildout of the Project and all associated impacts as of the completion of the final phase. Any phased Project shall comply with the provisions of Section [x]A.6.9.

*COMMENTS: The 40R Regulations permit Projects to be phased; see also Section [x]A.11.4 below. Therefore, DHCD will require the Starter Home Zoning to contain this provision.*

**10.** **PLAN APPROVAL PROCEDURES**

**10.1 Preapplication.** Prior to the submittal of a Plan Approval submission, a “concept plan” may be submitted to help guide the development of the definitive submission for Project buildout and individual elements thereof. Such concept plan should reflect the following:

1. Overall building envelope areas;

2. Open space and natural resource areas; and

3. General site improvements, groupings of buildings, and proposed land uses.

The concept plan is intended to be used as a tool for both the Applicant and the PAA to ensure that the proposed Project design will be consistent with the Design Standards and other requirements of the SHZOD.

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

**10.2 Required Submittals.** An application for Plan Approval shall be submitted to the PAA on the form provided by the PAA and approved by DHCD. The application shall be accompanied by such plans and documents as may be required and set forth in the PAA Regulations; the application fee specified in the PAA Regulations; and all materials required under Section [x]A.6.3. All site plans shall be prepared by a certified architect, landscape architect, and/or a civil engineer registered in the Commonwealth of Massachusetts. All landscape plans shall be prepared by a certified landscape architect registered in the Commonwealth of Massachusetts. All building elevations shall be prepared by a certified architect registered in the Commonwealth of Massachusetts. All plans shall be signed and stamped, and drawings prepared at a scale of [one inch equals forty feet (1"=40') or larger], or at a scale as approved in advance by the PAA.

*COMMENTS: The 40R Regulations state that if the Starter Home Zoning provides for Plan Approval of Projects within the District, it shall specify the criteria for such review, including the contents of an application for approval of a Project. DHCD recommends that the form of application, and rules governing the processing of the application by the PAA, be included in the PAA Regulations, rather than including such requirements in the Starter Home Zoning. Note that the PAA Regulations will be subject to review and approval by DHCD. Where filing fees are required, documentation must be submitted justifying the required fee(s).*

**10.3 Filing.** An Applicant for Plan Approval shall file the required number of copies of the application form and the other required submittals as set forth in the PAA Regulations with the Municipal Clerk and a copy of the application including the date of filing certified by the Municipal Clerk shall be filed forthwith with the PAA.

*COMMENTS: DHCD will require the Starter Home Zoning to contain this provision if Projects are subject to Plan Approval.*

**10.4 Circulation to Other Boards.** Upon receipt of the application, the PAA shall within 5 business days provide a copy of the application materials to the [Select Board / City Council], Board of Appeals, Board of Health, Conservation Commission, Fire Department, Police Department, Building Commissioner, Department of Public Works, the Monitoring Agent (for any Project subject to the Income-Restriction requirements of Section [x]A.6), and other municipal officers, agencies or boards for comment, and any such board, agency or officer shall provide any written comments within 60 days of its receipt of a copy of the plan and application for approval.

*COMMENTS: If an application is to be referred to any municipal officer, agency or board, including but not limited to the Monitoring Agent referenced in Section A.6.0, DHCD will require the Starter Home Zoning to contain this provision.*

**10.5 Hearing.** The PAA shall hold a public hearing for which notice has been given as provided in G.L. Chapter 40A, § 11. The decision of the PAA shall be made, and a written notice of the decision filed with the Municipal Clerk, within 120 days of the receipt of the application by the Municipal Clerk. The required time limits for such action may be extended by written agreement between the Applicant and the PAA, with a copy of such agreement being filed in the office of the Municipal Clerk. Failure of the PAA to take action within said 120 days or extended time, if applicable, shall be deemed to be an approval of the Plan Approval application.

*COMMENTS: DHCD will require the Starter Home Zoning to contain this provision if Projects are subject to Plan Approval.*

**10.6** **Peer Review.** For larger, more complex Projects or other circumstances where the PAA determines that it may be appropriate to utilize peer review, the Applicant shall be required to pay for reasonable consulting fees to provide peer review of the Plan Approval application, pursuant to G.L. Chapter 40R, § 11(a). Such fees shall be held by the Municipality in a separate account and used only for expenses associated with the review of the application by outside consultants, including, but not limited to, attorneys, engineers, urban designers, housing consultants, planners, and others. The submissions required of the Applicant and the scope of any such peer review must maintain a proportionality and rational nexus to the potential impacts of the Project on the site and on nearby land. Any surplus remaining after the completion of such review, including any interest accrued, shall be returned to the Applicant forthwith.

*COMMENTS: The scale and nature of most Starter Home Projects will likely not necessitate peer review; however; if an application is to be reviewed by outside consultants, DHCD will require the Starter Home Zoning to contain this provision. DHCD recommends that the PAA regulations specify the amount of fees.*

**11. PLAN APPROVAL DecisionS**

**11.1 Plan Approval.** Plan Approval shall be granted where the PAA finds that:

1. the Applicant has submitted the required fees and information as set forth in the PAA Regulations; and

2. the Project as described in the application meets all of the requirements and standards set forth in this Section [x] and the PAA Regulations, or a waiver has been granted therefrom, including written confirmation by the Monitoring Agent that all requirements of that Section have been satisfied;

3. the Project’s affirmative fair housing marketing and resident selection plan and Statutory Affordable Housing Restriction have been approved by DHCD, or the PAA approval is conditioned upon DHCD granting approval of the Project’s affirmative fair housing marketing and resident selection plan and Statutory Affordable Housing Restriction; provided that if any provision in the PAA decision is in conflict with DHCD’s requirements for affirmative fair housing marketing and resident selection, DHCD’s requirements shall control; and

4. any extraordinary adverse potential impacts of the Project on nearby properties have been adequately mitigated.

The PAA may attach conditions to the Plan Approval decision that are necessary to ensure substantial compliance with this Section [x], or to mitigate any extraordinary adverse potential impacts of the Project on nearby properties. Any conditions and fees imposed upon the Applicant must be proportional and have a rational nexus to the potential impacts of the Project on the site and on nearby land.

*COMMENTS: The 40R Regulations state that if the Starter Home Zoning provides for Plan Approval of Projects within the District, it shall specify the criteria upon which the PAA may condition its approval. DHCD will require the Starter Home Zoning to contain this provision if Projects are subject to Plan Approval.*

**11.2 Plan Disapproval.** A Plan Approval application may be disapproved only where the PAA finds that:

1. the Applicant has not submitted the required fees and information as set forth in the Regulations; or

2. the Project as described in the application does not meet all of the requirements and standards set forth in this Section [x] and the PAA Regulations, or that a requested waiver therefrom has not been granted; or

3. it is not possible to adequately mitigate extraordinary adverse Project impacts on nearby properties by means of suitable conditions.

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

*1) the Project does not meet the conditions and requirements set forth in the Starter Home Zoning;*

*2) the applicant failed to submit information and fees required by the Starter Home Zoning and necessary for an adequate and timely review of the design of the Project or potential Project impacts; or*

*3) it is not possible to adequately mitigate significant adverse Project impacts on nearby properties by means of suitable conditions.*

*To implement this requirement of the 40R Regulations, DHCD will require the Starter Home Zoning to contain this provision if Projects are subject to Plan Approval. The Starter Home Zoning must require that any conditions imposed upon the Applicant by the PAA be proportional to and have a rational nexus to the potential impacts of the Project on the site and on nearby land.*

**11.3 Waivers.** Upon the request of the Applicant and subject to compliance with G.L. c. 40R, 760 CMR 59.00 and Section [x]A.6.10, the Plan Approval Authority may waive dimensional and other requirements of this Section [x], including the Design Standards, in the interests of design flexibility and overall project quality, and upon a finding of consistency of such variation with the overall purpose and objectives of the SHZOD, or if it finds that such waiver will allow the Project to achieve the density, Income-Restriction, mix of uses, and/or physical character allowable under this Section [x].

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

**11.4 Project Phasing.** The PAA, as a condition of any Plan Approval, may allow a Project to be phased at the request of the Applicant, or it may require a Project to be phased for the purpose of coordinating its development with the construction of Planned Infrastructure Improvements (as that term is defined under 760 CMR 59.00), or to mitigate any extraordinary adverse Project impacts on nearby properties. For Projects that are approved and developed in phases, unless otherwise explicitly approved in writing by DHCD in relation to the specific Project, the proportion of Income-Restricted units shall be at least equal to the minimum percentage of Income-Restricted units required under Section [x]A.6.1.

*COMMENTS: The Chapter 40R Regulations state that 40R Zoning may permit the PAA to allow proposed Projects to be phased for the purpose of coordinating development with the construction of Planned Infrastructure Upgrades that are identified in the 40R Application or that are required to mitigate any extraordinary adverse Project impacts on neighboring properties. For Projects that are approved and developed in phases, the proportion of Income-Restricted units shall be at least equal to the minimum percentage of Income-restricted units required under Chapter 40R, the 40R Regulations and Section [x]A.6.1. Therefore, DHCD will require the Starter Home Zoning to contain this provision if Projects are subject to Plan Approval.*

**11.5 Form of Decision.** The PAA shall issue to the Applicant a copy of its decision containing the name and address of the owner, identifying the land affected, and the plans that were the subject of the decision, and certifying that a copy of the decision has been filed with the Municipality Clerk and that all plans referred to in the decision are on file with the PAA. If twenty (20) days have elapsed after the decision has been filed in the office of the Municipality Clerk without an appeal having been filed or if such appeal, having been filed, is dismissed or denied, the Municipal Clerk shall so certify on a copy of the decision. If a plan is approved by reason of the failure of the PAA to timely act, the Municipal Clerk shall make such certification on a copy of the application. A copy of the decision or application bearing such certification shall be recorded in the registry of deeds for the county and district in which the land is located and indexed in the grantor index under the name of the owner of record or recorded and noted on the owner's certificate of title. The fee for recording or registering shall be paid by the Applicant.

*COMMENTS: DHCD will require the Starter Home Zoning to contain this provision if Projects are subject to Plan Approval.*

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

*COMMENTS: DHCD recommends that the Starter Home Zoning contain this provision if Projects are subject to Plan Approval.*

**12. Change in Plans after Approval by PAA**

**12.1 Minor Change.** After Plan Approval, an Applicant may apply to make minor changes in a Project involving minor utility or building orientation adjustments, or minor adjustments to parking or other site details that do not affect the overall buildout or building envelope of the site, or provision of open space, number of housing units, or housing need or Income-Restriction features. Such minor changes must be submitted to the PAA on redlined prints of the approved plan, reflecting the proposed change, and on application forms provided by the PAA**.** The PAAmay authorize such changes at any regularly scheduled meeting, without the need to hold a public hearing. The PAA 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 Municipal Clerk.

*COMMENTS: DHCD recommends that the Starter Home Zoning contain this provision if Projects are subject to Plan Approval.*

**12.2 Major Change.** Those changes deemed by the PAA to constitute a major change in a Project because of the nature of the change in relation to the prior approved plan, or because such change cannot be appropriately characterized as a minor change as described above, shall be processed by the PAA as a new application for Plan Approval pursuant to Sections [x]A.9 - through [x]A.14.

*COMMENTS: Starter Home Zoning may apply Design Standards to Starter Home Zoning Districts; the language below represents a sample of Design Standards for Starter Homes generally. However, in an application for preliminary determination of eligibility for a SHZOD that is seeking expedited review, the Design Standards shall address no more than the size and location of garages/carports, decks or other non-living area structures associated with a Starter Home or Accessory Dwelling Unit, as applicable, and the basic roof style.*

 **13. LOW IMPACT DEVELOPMENT TECHNIQUES**

**13.1 Terms.**  In these Sections A.13 and A.14, the words “shall,” should,” and “may” are used to describe specific conditions. To clarify the meanings intended by the use of these words, the following definitions apply:

1. Shall: A mandatory condition. Where certain requirements in the design or application of the standard are described with the “shall” stipulation, it is mandatory that these requirements be met.
2. Should: An advisory condition. Where the word “should” is used, a condition is considered advisable, but is not mandatory. Noncompliance with a condition stipulated with the word “should” will not be the basis for denial of Plan Approval.
3. May: A permissive condition. No requirement or recommendation is intended.

**13.2** **Surfacing, Drainage, & Irrigation**

1. In any Project undergoing the Project Approval process:

1. Low Impact Development Techniques should be used throughout the site to the extent feasible.
2. Natural drainage courses should be utilized insofar as possible.
3. Curbing shall be required only as necessary to limit off pavement vehicle access or for pedestrian safety, unless other suitable materials are used.
4. All Low Impact Development stormwater features, detention, and filtration systems shall be designed to conform to the most recent edition of the Massachusetts Stormwater Handbook of the Massachusetts Department of Environmental Protection.
5. Impervious surface should be minimized.
6. Paved roadway, parking, and other impervious areas should be drained toward areas of low impact development practices such as bioretention areas (rain gardens), roadside swales and infiltration structures.

2. Low Impact Development Techniques employ a variety of natural and built features that:

1. Collect and treat stormwater runoff close to its source;
2. Reduce the rate of runoff;
3. Filter out its pollutants; and
4. Facilitate the infiltration of water into the ground.

 Rather than collecting runoff in piped or channelized networks and controlling the flow downstream in a large stormwater management facility, Low Impact Development Techniques take a decentralized approach that disperses flows and manages runoff closer to where it originates, and incorporates a set of overall site design strategies as well as highly localized, small-scale, decentralized source control techniques such as, for example, rain gardens, roof run-off collection or infiltration system, and permeable paving.

3. Roads, driveways and parking areas shall be graded, surfaced with asphalt, concrete, or other suitable non-erosive material, and drained in a manner to prevent nuisance of standing water, erosion, or excessive water flow across abutting streets or ways, within the proposed parking area, to abutting properties, and to wetland resource areas; natural drainage courses shall be utilized insofar as possible. Pervious asphalt, pervious concrete, pervious pavers or reinforced turf should be used where consistent with sound engineering practices, such as in low traffic volume areas and parking areas located in areas furthest from the buildings being served. To the extent feasible and practical, stormwater management shall incorporate Low Impact Development Techniques.

**14. Design Standards - general**

[**If the Design Standards are to be contained in the SHZ, the following provisions should be adopted:**

**14.1 Adoption of Design Standards**. Any Project undergoing the Plan Approval process shall be subject to Design Standards as set forth or referenced in the Design Standards section below corresponding to a specific SHZOD.

**14.2 Purpose**. The Design Standards are adopted to ensure that the physical character of Projects within the SHZOD:

1. will be complementary to nearby buildings and structures;

2. will be consistent with the Comprehensive Housing Plan, an applicable master plan, an area specific plan, or any other plan document adopted by the Municipality and approved by DHCD as satisfying the corresponding consistency requirements under 760 CMR 59.04(1)(f)3.b.; and

3. will, as applicable, provide for compact quality development consistent with the character of building types, streetscapes, and other community features traditionally found in densely settled areas of the Municipality or in the region of the Municipality.

**[If the Design Standards are to be contained within the PAA regulations, the following provisions should be adopted:**

 **14.1. Design Standards.** The PAA may adopt, by simple majority vote, Design Standards which shall be applicable to Projects subject to Plan Approval by the PAA. Such Design Standards must clearly distinguish standard requirements from recommendations or guiding principles and must be articulated objectively so that compliance can be reasonably interpreted and measured. Such Design Standards may only address:

1. for expedited review of SHZODs without the submission of a Developer’s Certificate of Feasibility: the size and location of garages or carports decks or other non-living area structures associated with a Starter Home or Accessory Dwelling Unit, and basic roof styles.
2. for standard review of SHZODs:the scale and proportions of buildings, the alignment, width, and grade of streets and sidewalks, the type and location of infrastructure, the location of building and garage entrances, off street parking, the protection of significant natural site features, the location and design of on-site open spaces, exterior signs, and buffering in relation to adjacent properties.**]** DHCD may, at its discretion, require Design Standards to contain graphics illustrating a particular standard or definition in order to make such standard or definition clear and understandable.**]**

 **14.2. DHCD Approval.** After adopting Design Standards, the PAA shall submit Design Standards to DHCD for approval. Design Standards shall not take effect until approved by DHCD and filed with the Municipal Clerk. In submitting proposed Design Standards for DHCD approval, the PAA shall also submit sufficient documentation clearly showing that the proposed Design Standards will not add unreasonable costs to development Projects or unreasonably impair the economic feasibility of a Project. Unless it is a Developer Certificate of Feasibility under the 40R Regulations, a letter from a developer, property owner or other interested party indicating that the Design Standards will not add unreasonable costs or unreasonably impair the economic feasibility of a Project shall not constitute sufficient documentation. In its discretion, DHCD may disapprove Design Standards if it finds that the PAA has not adopted objective Design Standards or has not submitted such documentation.

 **14.3. Plan Approval.** An application for Plan Approval that has been submitted to the Municipal Clerk pursuant to this Section [x] shall not be subject to Design Standards that have not been approved by DHCD and filed with the Municipal Clerk.]

*COMMENTS: For non-expedited 40R Applications for Starter Homes, Design Standards may address some or all of the following factors:*

*a) the scale, proportions, and exterior appearance of buildings;*

*b) the placement, alignment, width, and grade of streets and sidewalks;*

*c) the type and location of infrastructure;*

*d) the location of building and garage entrances;*

*e) off-street parking;*

*f) the protection of significant natural site features;*

*g) the location and design of on-site open spaces, landscaping, and exterior signs; and*

*j) buffering in relation to adjacent properties.*

*Under the Chapter 40R Regulations, the Municipality has the option either to include the Design Standards within the Starter Home Zoning, or to make them a part of the PAA Regulations. In either case, they must be reviewed and approved by DHCD before they can take effect. The Municipality must demonstrate to the satisfaction of DHCD that its Design Standards will not Unreasonably Impair the development of Projects in the District: that means that the Design Standards may not add unreasonable costs or unreasonably diminish the economic feasibility of proposed Projects. DHCD may disapprove a proposed District if the Design Standards fail to meet this test.*

*To qualify for expedited review for SHZODs, unless the 40R Application is accompanied by a Developer Certificate of Feasibility, the Design Standards may only address the size and location of garages or carports, decks or other non-living area structures associated with a Starter Home or Accessory Dwelling Unit, and basic roof styles. Additionally (without regard to whether a Developer Certificate of Feasibility is submitted), the Starter Home Zoning must utilize best practices for roadway and subdivision design and Low Impact Development Techniques consistent with DHCD guidance.*

**15. SEVERABILITY.**

If any provision of this Section [x] is found to be invalid by a court of competent jurisdiction, the remainder of Section [x] shall not be affected but shall remain in full force. The invalidity of any provision of this Section [x] shall not affect the validity of the remainder of the Municipality’s Zoning Bylaw/Ordinance.

*COMMENTS: DHCD recommends that the Starter Home Zoning contain this section.*

1. **Establishment and Delineation of the Starter Home Zoning Overlay Districts**

**1.** **[NAME OF DISTRICT]** **START HOME ZONING Overlay District**

**a.1 Establishment**. The [District Name] Starter Home Zoning Overlay District, hereinafter referred to as the “SHZOD,” is an overlay district having a land area of approximately \_\_ acres in size that is superimposed over the underlying zoning district (s) and is shown on the Zoning Map as set forth on the map entitled “[Name of District] Starter Home Zoning Overlay District, dated \_\_\_, prepared by \_\_\_.” This map is hereby made a part of the Zoning By-law and is on file in the Office of the Municipal Clerk.

*COMMENTS: The Starter Home Zoning must specify that the District is an overlay district. DHCD will further require that the Starter Home Zoning sufficiently identify the SHZOD overlay map. The Starter Home Zoning must state that the map is part of the local zoning bylaw and is on file in the office of the Municipal clerk.*

**a.2 Sub-districts.** The SHZOD contains the following sub-districts: [*e.g.*, Detached Starter Home with Accessory Dwelling Unit sub-district / Attached Starter Home sub-district / Mixed-use sub-district].

*COMMENTS: Although a SHZOD is not likely to contain sub-districts, if a community decides to adopt a SHZOD that will contain sub-districts, it is recommended that the community first consult with DHCD before drafting the bylaw.*

**b. Permitted Uses (District-Specific).** The SHZOD contains the following sub-districts: [e.g., Detached Starter Home sub-district / Attached Starter Home sub-district].

*COMMENTS: This section should identify any particular type of Starter Home, Accessory Dwelling Unit or other allowable use that is specific to the corresponding SHZOD.*

**c. Dimensional, Density and Parking Requirements (District-Specific)** The SHZOD contains the following sub-districts: [e.g., Detached Starter Home sub-district / Attached Start Home sub-district].

*COMMENTS: This section should identify any dimensional requirements, etc., that are particular to the corresponding SHZOD.*

**d. Design Standards (District-Specific)**

*COMMENTS: This section should specify any Design Standards (if applicable) that are particular to the corresponding SHZOD.*