

ATTACHMENT A

Article 9 – Amendments to Zoning Bylaw Chapter 255-31 Flexible Development and 255 Attachment 1 Use Regulations Schedule

NOTE: Deleted text is marked with a ~~strike-through~~; new text is underlined.

§ 255-31 Flexible Ddevelopment.

A. Purposes. Flexible Ddevelopment provisions are designed to encourage:

- (1) Development of diverse and affordable housing types while preserving natural open space.
- (2) Permanent protection of open space to preserve and enhance scenic landscapes, wildlife habitat, biodiversity, air and water quality, and ecosystem health.
- (3) Protection of agricultural land to support local food production.
- (4) Protection of significant trees and forested landscapes for carbon sequestration and climate resilience.
- ~~(52) Preservation of natural open space for its scenic qualities and for its agricultural, environmental, forestry, and recreational uses.~~
- ~~(63) Protection and enhancement of property values.~~
- ~~(74) Housing located sensitive to a site's environmental assets and constraints.~~
- ~~(85) Housing developments which minimize the construction of public infrastructure.~~
- ~~(96) Maintenance of existing visual corridors and views of natural community assets (such as views of Mount Holyoke, Mount Tom, the Connecticut River, and agricultural activities).~~
- (107) Integration ~~Interaction~~ of preserved open space with ~~residents, residential neighborhoods to support human physical and mental health, through active and passive recreation.~~

B. Applicability. The Planning Board may permit creation of a Fflexible Ddevelopment from any parcel or set of contiguous parcels held in common ownership and located entirely within the Town of South Hadley in accordance with the provisions of this section of the Zoning Bylaw. Creation of a Fflexible Ddevelopment requires ~~approval of a special permit or~~ Site Plan Review and Definitive Subdivision Plan or Common Drive approval as specified herein.

C. Definitions. As used in this section, the following words and phrases shall have the meanings and intent respectively ascribed to them by this subsection. If any word or phrase conflicts with definitions specified elsewhere in the South Hadley Zoning Bylaw, the meaning and intent ascribed below shall govern:

SINGLE-FAMILY ATTACHED HOUSING

A form of development in which each single-family residence is on a separate lot but shares one or more exterior walls common with an adjoining single-family residence.

COMMON USABLE OPEN SPACE

Areas suitable for use as facilities and sites for play, tot lots, gardens, hiking/jogging trails, or similar facilities, as well as land for conservation purposes.

D. Design process.

(1) Flexible Ddevelopment is a unique approach in that it permits wide flexibility in defining the dimensional standards and density allowed for the residential development with a focus on open space and cultural space preservation. The design process outlined below is essential to achieving the purposes of the Flexible Ddevelopment provisions of the Zoning Bylaw. Accordingly, each development plan shall be based on following the multistep design process outlined below.

- (a) Inventory and assessment of the site. As an initial step, the applicant is to inventory the existing site features giving special attention to the site's natural, scenic, and cultural resources and the interrelationships of the important features to each other.
- (b) Evaluation of site context. The next step involves an evaluation of the site in its larger context by identifying environmental, transportation, utility, drainage, and cultural elements and relationships to surrounding land uses and activities. This evaluation must include an assessment of the types and densities of adjoining developments.
- (c) Designation of preservation areas. The third step is to identify the Common Open Space and cultural areas of the site to be preserved or enhanced. These areas should include the most important and unique resources and scenic view elements. To the extent appropriate, areas that serve to extend neighborhood and community open space networks should be included in these areas.
- (d) Delineation of development features. The fourth step is to delineate the locations/areas to be used for the development features, including, but not limited to, building sites, streets, parking areas, paths, utility infrastructure corridors, and drainage basins. This process should reflect an integrated community which is compatible with surrounding and historical development patterns.
- (e) Lot lines. If the development involves division of the property into building lots, the next step is delineation of the lot lines.

~~(f) Definitive plan. The final step in the design process is preparation of the definitive plan required by the South Hadley Subdivision Regulations. This plan is encouraged to be submitted as part of the special permit application but, as provided in Subsection E(2), must be submitted and approved in accordance with the South Hadley Subdivision Regulations.~~

(f) Final steps in design process.

(i) When a Flexible Development is to involve the subdivision of land and/or require the Planning Board's approval under the Subdivision Control Law or is proposed to result in creation of a new roadway which is to be considered for acceptance by the Town as a public way, or established as a private way not to be considered by the Town for acceptance as a public way, the final step in the design process is preparation of the Definitive Plan required by the South Hadley Subdivision Regulations. Without approval of the Flexible Development, the subdivision would not conform to the Zoning Bylaw. Therefore, a Definitive Plan shall not be submitted until after approval is granted for the Flexible Development and an appeal, if any, is resolved.

(ii) When a Flexible Development is to involve development of a Common Drive pursuant to § 255-95, the final step in the design process is preparation of the Common Drive Plan pursuant to § 255-95 and the Planning Board Rules and Regulations adopted pursuant to § 255-95. A draft of such plan should be submitted with the application for a Flexible Development.

(2) As part of the public hearing process on ~~the special permit~~ or the Site Plan Review application, applicants are to demonstrate to the Planning Board that the applicant, at a minimum, incorporated this design process in developing the proposed development plan.

E. Procedures. Flexible Ddevelopment is a unique use which requires either Site Plan Review by or aa

~~special permit from~~ the Planning Board. In addition to the provisions of ~~Article IX or Article XII~~ of the Zoning Bylaw, the following provisions also apply to the ~~F~~flexible ~~D~~development application:

- ~~(1) Concept review. While not required, applicants are encouraged to submit a concept plan for informal review by the Planning Board. Materials for this informal review shall be submitted at least 15 calendar days prior to the date of the Planning Board meeting at which the review is to be undertaken. The materials to be provided for this concept review should be sufficient to demonstrate the applicant has, on at least a preliminary basis, completed the design process detailed herein.~~
- ~~(2) Subdivision plan. All flexible development projects will involve submittal and approval of a subdivision plan pursuant to the Town of South Hadley Subdivision Regulations. Accordingly, the applicant must submit and obtain approval of the definitive plan either at the time of submittal of an application for the special permit or at a later date, but in accordance with the South Hadley Subdivision Regulations.~~
 - ~~(a) Applicants are encouraged to submit an application for definitive subdivision approval with the application for a special permit.~~
 - ~~(b) If an applicant submits an application for definitive subdivision approval with his/her application for a special permit, the applicant must also provide written authorization to extend the deadline for definitive plan approval to a date at least 30 days after the special permit decision is filed with the Town Clerk.~~

(1) Definitive Plan or Common Drive Plan Submission

(a) For those developments which will also involve the subdivision of land and/or require the Planning Board's approval under the Subdivision Control Law or is proposed to result in creation of a new roadway which is to be considered for acceptance by the Town as a public way, or established as a private way not to be considered by the Town for acceptance as a public way:

(i) A site plan which lays out the applicant's proposed development. As noted in 255-31D(f)(i) above, no Subdivision Plan (preliminary or definitive) shall be submitted until after the Flexible Development is approved and any appeals resolved.

(b) For those developments which will not involve the subdivision of land and/or require the Planning Board's approval under the Subdivision Control Law nor involves creation of a new roadway which is to be considered for acceptance by the Town as a public way:

(i) A draft Common Drive development plan conforming to the Board's Rules and Regulations adopted under § 255-95 Common Drive shall be filed with the application for Flexible Development.

(c) Submission of a draft Common Drive Plan as part of the applicant's Flexible Development Plan submission shall not trigger any deadline for acting on such a plan which may be specified in Section 255-95. The Planning Board approval of a Flexible Development application shall not be construed as approval of a plan under either the Subdivision Regulations or Section 255-95.

~~(23)~~ Supplemental contents. In addition to the requirements specified in ~~Article IX or Article XII~~ and Appendix E of the Zoning Bylaw, applications for a ~~F~~flexible ~~D~~development must include the following information:

- (a) Boundaries of areas subject to regulation by the South Hadley Conservation Commission.
- (b) Topographic contours (existing and proposed) at intervals of 10 feet or less.

- (c) Cultural and historic features on the property to include, but not limited to, stone walls, archeological and historic sites and structures. ~~and significant trees.~~
- (d) Significant trees for the optimization of carbon sequestration, storage, natural shade/climate friendly cooling for buildings, and forest regeneration, based on existing site conditions.
- (ed) Scenic views (as defined in § 255-10) as determined by on-site observations from public roads and vantage points within the development site.
- (fe) Historic sites listed on the National Register of Historic Places or Sites.
- (gf) Description of proposed dimensional standards.
- (hg) Description of how the proposed development reflects compliance with the design process and design standards.

F. Establishment of Flexible Development Tiers.

- (1) Tier 1 Flexible Development: 30-50% open space
- (2) Tier 2 Flexible Development: >50% open space

G. Housing types permitted. To further the purposes of this section of the Zoning Bylaw, the Planning Board may permit the following types of residential uses:

- (1) ~~Single family detached.~~
- (2) ~~Single family attached.~~
- (3) ~~Multiple family (includes condominium developments).~~
- (4) ~~Two family.~~
- (5) ~~Three family.~~
- (6) ~~Four family.~~
- (7) ~~Fifty five and over communities.~~
- (8) ~~Zero lot line housing.~~
- (9) ~~Customary accessory structures and uses.~~

FG. Housing types permitted. To further the purposes of this section of the Zoning Bylaw, the Planning Board may permit the following types of residential uses only as noted in the following provisions:

(1) The following housing types may be approved by Site Plan Review as part of a Flexible Development. Any Housing type not listed shall be according to the use regulations schedule:

- (a) Tier 1 Flexible Development
 - (i.) Detached Single-family (new)
 - (ii.) Attached Single-family

- (iii.) Two Family (Duplex)
- (b) Tier 2 Flexible Development
 - (i.) Detached Single Family (new)
 - (ii.) Attached Single Family
 - (iii.) Two Family (Duplex)
 - (iv.) Three Family (Triplex)

GH. Dimensional standards.

- (1) Minimum tract size. The minimum size of tract that may be considered for a Flexible Development is ~~five~~ three acres.
- (2) Internal dimensional standards. Lots and buildings without direct access to preexisting public roadways may be developed with dimensional requirements other than those of the underlying zoning district. Therefore, for lots and buildings within a Flexible Development without direct access to preexisting public roadways, the applicant shall propose dimensional standards including the minimum lot area, minimum lot frontage, maximum lot coverage, and minimum yard setback requirements to create building sites which differ from those specified for the underlying zoning district. These internal dimensional standards are subject to Planning Board approval. The applicant shall have the burden of demonstrating, to the Planning Board's satisfaction, that the proposed dimensional standards are appropriate for the site's natural and cultural attributes and in keeping with the purposes of this section of the Zoning Bylaw.
- (3) Perimeter dimensional standards.
 - (a) For lots and buildings within a Flexible Development, but which abut lots or roadways adjoining the proposed development, the dimensional standards of the underlying zoning district as specified in § ~~255-21~~ of the Zoning Bylaw shall be applicable.
 - (b) Waiver. The Planning Board may permit a vegetated buffer and/or screening fence to be provided to sufficiently screen the proposed residences from the existing developments in lieu of compliance with the underlying zoning district's dimensional standards. Where such a buffer is permitted as provided in this waiver provision, the following conditions shall apply:
 - [1] The Planning Board may require the buffer area to extend around the perimeter of the subject tract.
 - [2] The Planning Board may require the buffer area to be equal to or greater than double the required rear yard setback of the underlying zoning district.
 - [3] Any required buffer area shall be left undisturbed and the applicant shall provide for its maintenance in perpetuity.
 - [4] If the existing vegetation is inadequate to provide a visual buffer, the Planning Board may require the applicant to add vegetation sufficient to provide a buffer.

HI. Density standards. The base number of dwelling units which may be allowed or permitted in a Flexible Development ~~shall not exceed the number of lots which could reasonably be permitted in the underlying zoning district in accordance with the dimensional standards specified in § 255-21 of the Zoning Bylaw shall be in accordance with this section.~~

- (1) Multiple zoning districts. If the subject property is located within multiple zoning districts, the base number of dwelling units shall be based on the acreage situated in the respective zoning districts. However, the location of the approved number of dwelling units is not subject to the boundaries of the

underlying zoning district.

- (2) Planning Board restrictions. Where the natural conditions (significant wetlands, floodplain, and/or steep slopes) of the subject site suggest that the base number of dwelling units as determined by the method specified in Subsection ~~I H(1) and (3)~~ is excessive, the Planning Board may require the applicant to deduct all or a portion of the areas subject to those natural conditions from the gross acreage of the site.
- (3) Determining base number of dwelling units. The base number of dwelling units shall generally be determined by either of the following methods:
 - (a) ~~Yield Preliminary~~ plan. The applicant may submit a ~~Yield preliminary~~ plan which demonstrates the number of dwellings which could reasonably be situated on the site subject to the underlying zoning district's dimensional requirements.
 - (b) Preset method.
 - [1] Multiply the gross acreage of the subject site by the following maximum density standard for the subject zoning district and round down to the nearest whole number. The resulting number shall be the allowable base number of units for the developed portion of the site:

Zoning District	# Units per Acre
(a) Tier 1 Flexible Development	
Agricultural	0.75 or 0.90* 1.125 or 1.35*
Residence A-1	1.20 1.8
Residence A-2	2.00 3.0
Residence B	3.25 4.8
(b) Tier 2 Flexible Development	
<u>Agricultural</u>	<u>1.50 or 1.80*</u>
<u>Residence A-1</u>	<u>2.4</u>
<u>Residence A-2</u>	<u>4.0</u>
<u>Residence B</u>	<u>6.5</u>
*For Tier 1 and 2 Flexible Development, if the property is located within the Water Supply Protection District and lacks public water and sewer services, the lower density figure will apply. However, if the subject property is provided with public water service and either public sewer service or an alternative sewage disposal system pursuant to Subsection KJ(4)(b) below, the higher number of units per acre may be used.	

- [42] Planning Board verification. ~~However, the~~ The Planning Board may require submittal of a ~~Yield preliminary P~~ plan to substantiate the number of lots proposed to be used as the base number if a substantial portion of the subject property is occupied by natural features and/or easements and dimensions which restrict the number of lots which might be developed on the property.
- ~~IJ.~~ Density bonuses. The Planning Board may permit density bonuses to increase the number of dwelling units beyond the base number of dwelling units as provided in Subsection ~~I H~~. The Planning Board shall utilize the following conditions as the bases for granting density bonuses:
 - (1) ~~Small dwelling units. Additional open space. For each additional 10% of the site (over and above the required 30%) set aside as common open space, a density bonus of one additional unit may be awarded; provided that this density bonus shall not exceed 50% of the base number of dwelling units. Vegetated areas required as buffer areas between the subject development and adjoining properties or roadways shall not qualify for this additional open space density bonus. Dwelling units (detached, attached) <= or equal to 800 square feet of conditioned floor area shall count as .5 units.~~

- (2) Affordable housing units. For developments that provide that at least 25% of the dwelling units are permanently affordable for persons with an income of no more than 80% of the median family income for the area, the Planning Board may permit a density bonus of 25% of the base number of dwelling units. These shall be permanently deed restricted housing units for households within an income of no more than 80% of the median family income for the area. Dwelling Units qualifying as affordable shall count as 0.25 units, such that said units will qualify under the SHI requirements of EOHLC.
- ~~(3) Fifty-five-and-over community. Flexible developments restricted as fifty-five-and-over communities may qualify for a bonus of 25% of the base number of dwelling units.~~
- (34) Limits on bonuses. Density bonuses shall be cumulative and shall not cumulatively exceed 50% of the base number of dwelling units, as described in I(3) above.

(45) Total dwelling unit count. The total dwelling unit count with density bonuses, may round up to the nearest whole number.

JK. Site design standards.

- (1) Building and lot orientations.
 - (a) Structures shall be oriented toward the street serving the premises and not the required parking areas.
 - (b) Lots shall be laid out and designed, to the greatest extent feasible, to preserve and protect historic and archeological sites, farmland, wooded stream corridors, forested areas and large trees, scenic views particularly as seen from public roads, ridgelines and hilltops.
- (2) Roadways.
 - (a) Conformity to standards. The principal roadway(s) serving the site shall be designed to conform with the standards set forth in the Town of South Hadley Subdivision Regulations.
 - (b) Waiver(s). The applicant may request waiver of roadway and related standards as provided for in the Town of South Hadley Subdivision Regulations. However, the Planning Board may restrict such waivers to proposed private roadways.
- (3) Parking.
 - (a) Each dwelling unit shall be served by off-street parking spaces as provided in § 255-86 of the Zoning Bylaw.
 - (b) Waiver. The Planning Board may grant waiver(s) of the requirements of § 255-86 of the Zoning Bylaw subject to conditions the Board determines to be appropriate.
- (4) Water Supply Protection District. The Planning Board may grant a special permit to allow a flexible development in the Water Supply Protection District where the following conditions are satisfied:
 - (a) Protection of water supply. The Planning Board determines that the density and design of the development will provide adequate protection for the water supply. To this end, the number of dwelling units shall be determined by the -method stated in Subsection I. preliminary plan method stated in Subsection H(3)(a). The maximum density bonuses which may be permitted in the Water Supply Protection District pursuant to Subsection J Subsection I above shall not exceed 1/2 the amount permitted outside the Water Supply Protection District.
 - (b) Sewage disposal. The Board of Health grants approval for a common septic disposal system where public sewer is not available. The Planning Board may, but is not required to, permit the area occupied

by such system to be included in the Common Open Sspace if the Planning Board determines that inclusion of such an area ~~in the common open space~~ is consistent with the purposes of this section and the purposes of the Common Open Sspace.

- (5) Modification of Zoning Bylaw restrictions. The Planning Board may grant waivers of the fence and parking restrictions/requirements where the Board deems it necessary to further the purposes of this section of the Zoning Bylaw.

KL. Common Open Sspace. Each flexible development shall provide for ~~usable~~ Common Open Sspace.

- ~~(1) Minimum required. A minimum of 30% of the parcel shown on the development plan shall be in usable open space.~~
- ~~(2) Multiple parcels. The required common open space may be in multiple parcels, provided that no individual parcel shall be less than 25% of the required common open space and all of the parcels are connected via walkways, pathways, roadways, or other means of access. The portion of the connecting accessway located outside of the limits of roadway or roadway right-of-way may be included in the calculation of the area of the common open space.~~
- ~~(3) Uses of common usable open space. The required common usable open space shall be used for agriculture, natural education, recreation, conservation, historic, park purposes, or a combination of such uses. Public easement purposes may also be permitted to traverse portions of the common usable open space. Only structures commonly associated with and incidental to the permitted uses shall be permitted in the common usable open space areas.~~
- ~~(4) Composition of common usable open space.
 - ~~(a) While the Planning Board will make the final determination of the composition of the common usable open space, the common usable open space may include wetlands, floodplain land, and steep slopes. However, the required open space shall not be comprised exclusively of lands with such restrictions. As a general guide, no more than 50% of the required open space shall be composed of wetlands. The applicant has the burden of demonstrating that the composition of the proposed open space and its location and access further the purposes of the flexible development provisions and are appropriate for the proposed development.~~
 - ~~(b) The Planning Board may deny use of any surface drainage systems (such as retention and detention ponds, swales, etc.) as qualifying for the required open space.~~~~
- ~~(5) Access from dwelling units.
 - ~~(a) A maximum number of the subject development's dwelling units compatible with good design shall abut the open space. All dwelling units shall have ready access to the common open space either physically or through internal pedestrian paths or sidewalks.~~
 - ~~(b) Exception. The Planning Board may grant an exception to the access requirement upon a recommendation from the Conservation Commission that the resource area is vulnerable to trampling or other disturbance and physical access should not be provided.~~~~
- ~~(6) Accessory buildings. Structures or buildings accessory to recreation, conservation, or agriculture use may be erected but shall not exceed 5% of the area protected as common open space. Accordingly, the applicant may make provision for erection of such structures by subsequent owners of the residences; however, the aggregate size of all such structures shall not exceed the 5% rule. Further, the applicant shall make provisions for maintenance of any accessory structures or buildings (such provisions may include assignment of responsibility to a homeowners' association).~~

(1) All Flexible Developments must include Common Open Space which conforms to the provisions of §255-96 of the Zoning Bylaw.

LM. Ownership of Common Open Space.

~~(1) Conveyance. The required common open space shall, at the Planning Board's election, be conveyed to:~~

~~(a) The Town or its Conservation Commission and be accepted by the Town for park or open space use.~~

~~(b) A nonprofit organization, the principal purpose of which is the conservation of open space.~~

~~(c) A corporation or trust owned or to be owned by the owners of the lots or residential units within the development. If such a corporation or trust is utilized, as indicated herein, ownership thereof shall pass with conveyance of the lots or residential units.~~

~~(2) Restriction. Regardless of the ownership of the open space, any conveyance shall be subject to the conditions of the Planning Board approval of the flexible development and subject to a recorded restriction enforceable by the Town, provided that such land shall be:~~

~~(a) Perpetually kept in an open state; and~~

~~(b) Preserved for exclusively agricultural, horticultural, educational, or recreational purposes [except for those lands permitted to also be used for a common septic disposal system pursuant to Subsection J(4)]; and~~

~~(c) Maintained in a manner which will ensure its suitability for its intended purposes; and~~

~~(d) Prohibited from being further subdivided.~~

(1) The Common Open Space required under Section 255-31L shall be permanently restricted for use as open space and not permitted to be developed into additional residential buildings, commercial uses, or other improvements except as permitted in accordance with the provisions of Section 255-96.

(2) Ownership of the required Common Open Space shall conform to the provisions of § 255-96 of the Zoning Bylaw.

MN. Not subject to variance. No provision of this section, nor any project for which a ~~special permit~~ Site Plan Approval was granted under this section, shall be subject of a dimensional variance from the Zoning Board of Appeals. If deviations from the approved dimensional standards become necessary, the Planning Board may waive those dimensional standards and amend the Site Plan Approval ~~special permit~~ to accommodate such conditions.

