

Office of the Town Clerk
116 Main Street, Room M11
South Hadley, MA 01075
(413) 538-5030 ext.6115

Sarah B. Gmeiner, Town Clerk
Zoe Ingram, Assistant Town Clerk

Legal Notice

The following Zoning By-law(s) and or General By-law(s) were voted and approved by South Hadley Town Meeting Members at the May 14, 2025 Annual Town Meeting. These By-laws were approved by the Attorney General on **November 7, 2025** after a 60-day extension and posted by David J. Labrie on **November 12, 2025**.

ARTICLE 16 – OLD FIREHOUSE MUSEUM LOCAL HISTORIC DISTRICT
ARTICLE 18 – ZONING BYLAW AND ZONING MAP AMENDMENT – VILLAGE DISTRICT
ARTICLE 19* – ZONING BYLAW CHAPTER 255-50 ACCESSORY DWELLING UNITS AMENDMENT
*Partially Accepted

The following Zoning By-law is extended for an additional 60 days. The decision by the Attorney General will be issued on or before **December 10, 2025**.

ARTICLE 20 – CITIZEN PETITION – SOUTH HADLEY WELCOMING COMMUNITY ORDINANCE

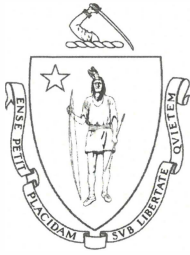
Pursuant to G.L. c. 40, § 32, neither general nor zoning by-laws take effect unless the Town has first satisfied the posting requirements of that statute.

Claims of Invalidity by reason of any defect in the procedure of adoption or amendment may only be made within ninety days of such posting. Copies of such by-laws may be examined and obtained at the Town Clerk's Office.

The inhabitants of South Hadley were notified by posting of attested copies of the same at the following places, to wit:

Town Office Building 116 Main St.,
Main Library 2 Canal St.,
COA 45 Dayton St.,
Fire Station District #2 20 Woodbridge St.,
Water District #1 438 Granby Rd.

Signed: 
Sarah B. Gmeiner, Town Clerk



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE ATTORNEY GENERAL

CENTRAL MASSACHUSETTS DIVISION
10 MECHANIC STREET, SUITE 301
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November 7, 2025

Sarah B. Gmeiner, Town Clerk
Town of South Hadley
116 Main Street, Room M11
South Hadley, MA 01075

Re: South Hadley Annual Town Meeting of May 14, 2025 – Case # 11930
Warrant Articles # 17, 18, and 19 (Zoning)
Warrant Article # 16 (Historic)
Warrant Articles # 15 and 20 (General)¹

Dear Ms. Gmeiner:

Articles 16 and 18 - We approve Articles 16 and 18, and the map amendments adopted under these Articles, from the May 14, 2025 South Hadley Annual Town Meeting. We will return the approved maps to you by mail. Our comments regarding Articles 16 and 18 are provided below.

Article 20 - By agreement with Town Counsel pursuant to G.L. c. 40, § 32, we have extended our deadline for a decision on Article 20 for an additional 30 days. Our decision on Article 20 will now be due on **December 10, 2025**. The signed extension agreement is attached.

Article 19 - Under Article 19, the Town amended its zoning by-laws regarding Accessory Dwelling Units (“ADUs”) to allow ADUs as of right in compliance with G.L. c. 40A, § 3 and the implementing Regulations promulgated by the Executive Office of Housing and Livable Communities (“EOHLC”), 760 CMR 71.00, “Protected Use Accessory Dwelling Units” (“Regulations”).²

We partially approve the amendments adopted under Article 19 because the approved text does not conflict with G.L. c. 40A, § 3 and the Regulations. However, we disapprove the portion of Section 255-50 (C)(2)(e) that imposes dimensional standards upon a “principal dwelling that is

¹ In a decision issued September 11, 2025, we approved Articles 15 and 17 and by agreement with Town Counsel as authorized by G.L. c. 40, § 32, we extended our deadline for review of Articles 16, 18, 19, and 20 for 60 days until November 10, 2025. We will issue our decision regarding Article 20 on or before our second extended deadline of December 10, 2025.

² The Regulations can be found here: <https://www.mass.gov/doc/760-cmr-7100-protected-use-adus-final-version/download>

not a single-family residential dwelling unit” that conflict with the Regulations, as explained below. See Amherst v. Attorney General, 398 Mass. 793, 795-96 (1986) (requiring inconsistency with state law or the Constitution for the Attorney General to disapprove a by-law).

In this decision we summarize the by-law amendments adopted under Article 19; discuss the Attorney General’s standard of review of town by-laws and the recent statutory and regulatory changes that allow Protected Use ADUs as of right;³ and then explain why, based on our standard of review, we partially approve the zoning by-law amendments adopted under Article 19. In addition, we offer comments for the Town’s consideration regarding certain approved provisions.

I. Summary of Article 19

Under Article 19 the Town amended two sections of its zoning by-laws regarding ADUs. The first change amends Section 255-10, “Terms Defined,” to add new definitions including for the terms “Accessory Dwelling Unit (ADU)” and “Protected Use ADU.” The second change deletes the existing Section 255-50 and inserts a new Section 255-50, “Accessory Dwelling Units,” that imposes requirements on ADUs including dimensional and parking requirements.

II. Attorney General’s Standard of Review of Zoning By-laws

Our review of Article 19 is governed by G.L. c. 40, § 32. Under G.L. c. 40, § 32, the Attorney General has a “limited power of disapproval,” and “[i]t is fundamental that every presumption is to be made in favor of the validity of municipal by-laws.” Amherst, 398 Mass. at 795-96. The Attorney General does not review the policy arguments for or against the enactment. Id. at 798-99 (“Neither we nor the Attorney General may comment on the wisdom of the town’s by-law.”) “As a general proposition the cases dealing with the repugnancy or inconsistency of local regulations with State statutes have given considerable latitude to municipalities, requiring a sharp conflict between the local and State provisions before the local regulation has been held invalid.” Bloom v. Worcester, 363 Mass. 136, 154 (1973).

Article 19, as an amendment to the Town’s zoning by-laws, must be given deference. W.R. Grace & Co. v. Cambridge City Council, 56 Mass. App. Ct. 559, 566 (2002) (“With respect to the exercise of their powers under the Zoning Act, we accord municipalities deference as to their legislative choices and their exercise of discretion regarding zoning orders.”). When reviewing zoning by-laws for consistency with the Constitution or laws of the Commonwealth, the Attorney General’s standard of review is equivalent to that of a court. “[T]he proper focus of review of a zoning enactment is whether it violates State law or constitutional provisions, is arbitrary or unreasonable, or is substantially unrelated to the public health, safety or general welfare.” Durand v. IDC Bellingham, LLC, 440 Mass. 45, 57 (2003). “If the reasonableness of a zoning bylaw is even ‘fairly debatable, the judgment of the local legislative body responsible for the enactment must be sustained.’” Id. at 51 (quoting Crall v. City of Leominster, 362 Mass. 95, 101 (1972)).

³ 760 CMR 71.02 defines the term “Protected Use ADU” as follows: “An attached or detached ADU that is located, or is proposed to be located, on a Lot in a Single-family Residential Zoning District and is protected by M.G.L. c. 40A, § 3, provided that only one ADU on a lot may qualify as a Protected Use ADU. An ADU that is nonconforming to Zoning shall still qualify as a Protected Use ADU if it otherwise meets this definition.”

However, a municipality has no power to adopt a zoning by-law that is “inconsistent with the constitution or laws enacted by the [Legislature].” Home Rule Amendment, Mass. Const. amend. art. 2, § 6.

III. Summary of Recent Legislative Changes Regarding ADUs

On August 6, 2024, Governor Healey signed into law the “Affordable Homes Act,” Chapter 150 of the Acts of 2024 (the “Act”). The Act includes amendments to the State’s Zoning Act, G.L. c. 40A, to establish ADUs as a protected use subject to limited local regulation including amending G.L. c. 40A, § 1A to add a new definition for the term “Accessory dwelling unit” and amending G.L. c. 40A, § 3 (regarding subjects that enjoy protections from local zoning requirements, referred to as the “Dover Amendment”), to add a new paragraph that restricts a zoning by-law from prohibiting, unreasonably regulating or requiring a special permit or other discretionary zoning approval for the use of land or structures for a single ADU. The amendment to G.L. c. 40A, § 3, to include ADUs means that ADUs are now entitled to statutory protections from local zoning requirements.

On January 31, 2025, the EOHLIC promulgated regulations for the implementation of the legislative changes regarding ADUs. See 760 CMR 71.00, “Protected Use Accessory Dwelling Units.”⁴ The Regulations define key terms and prohibit certain “Use and Occupancy Restrictions” defined in Section 71.02 as follows:

Use and Occupancy Restrictions. A Zoning restriction, Municipal regulation, covenant, agreement, or a condition in a deed, zoning approval or other requirement imposed by the Municipality that limits the current, or future, use or occupancy of a Protected Use ADU to individuals or households based upon the characteristics of, or relations between, the occupant, such as but not limited to, income, age, familial relationship, enrollment in an educational institution, or that limits the number of occupants beyond what is required by applicable state code.

While a municipality may reasonably regulate a Protected Use ADU in the manner authorized by 760 CMR 71.00, such regulation cannot prohibit, require a special permit or other discretionary zoning approval for, or impose a “Prohibited Regulation”⁵ or an “Unreasonable

⁴ See the following resources for additional guidance on regulating ADUs: (1) EOHLIC’s ADU FAQ section (<https://www.mass.gov/info-details/accessory-dwelling-unit-adu-faqs>) (2) Massachusetts Department of Environmental Protection’s Guidance on Title 5 requirements for ADUs (<https://www.mass.gov/doc/guidance-on-title-5-310-cmr-15000-compliance-for-accessory-dwelling-units/download>); and <https://www.mass.gov/doc/frequently-asked-questions-faq-related-to-guidance-on-title-5-310-cmr-15000-compliance-for-accessory-dwelling-units/download>; and (3) MassGIS Addressing Guidance regarding address assignments for ADUs (<https://www.mass.gov/info-details/massgis-addressing-guidance-for-accessory-dwelling-units-adus>).

⁵ 760 CMR 71.03 prohibits a municipality from subjecting the use of land or structures on a lot for a Protected Use ADU to any of the following: (1) owner-occupancy requirements; (2) minimum parking requirements as provided in Section 71.03; (3) use and occupancy restrictions; (4) unit caps and density limitations; or (5) a requirement that the Protected Use ADU be attached or detached to the Principal Dwelling.

Regulation” on, a Protected Use ADU. See 760 CMR 71.03, “Regulation of Protected Use ADUs in Single-Family Residential Zoning Districts.”⁶ Moreover, Section 71.03 (3)(a) provides that while a town may reasonably regulate and restrict Protected Use ADUs, certain restrictions or regulations “shall be unreasonable” in certain circumstances.⁷ In addition, while municipalities may impose dimensional requirements related to setbacks, lot coverage, open space, bulk and height and number of stories (but not minimum lot size), such requirements may not be “more restrictive than is required for the Principal Dwelling, or a Single-Family Residential Dwelling or accessory structure in the Zoning District in which the Protected Use ADU is located, whichever results in more permissive regulation...” 760 CMR 71.03 (3)(b)(2). Towns may also impose site plan review of a Protected Use ADU, but the Regulations requires the site plan review to be clear and objective and prohibits the site plan review authority from imposing terms or conditions that “are unreasonable or inconsistent with an as-of-right process as defined in M.G.L. c. 40A, § 1A.” 760 CMR 71.03 (3)(b)(5).

We incorporate by reference our more extensive comments regarding these recent statutory and regulatory changes related to ADUs in our decision to the Town of East Bridgewater, issued on April 14, 2025 in Case # 11579.⁸ Against the backdrop of these statutory and regulatory parameters regarding Protected Use ADUs, we review the zoning amendments adopted under Article 19.

IV. Text Disapproved from Article 19 Because it Conflicts with G.L. c. 40A, § 3 and the Regulations

Section 255-50 (C), “Regulations,” Subsection 2, “Dimensional Standards and Code Compliance,” paragraphs (d) and (e) impose dimensional requirements on ADUs as follows (with emphasis added):

⁶ For example, a design standard that is not applied to a Single-Family Residential Dwelling in the Single-Family Residential Zoning District in which the Protected Use ADU is located or is so “restrictive, excessively, burdensome, or arbitrary that it prohibits, renders infeasible, or unreasonably increases the costs of the use or construction of a Protected Use ADU” would be deemed an unreasonable regulation. See 760 CMR 71.03 (3)(b).

⁷ Section 71.03 (3)(a) provides that while a town may reasonably regulate and restrict Protected Use ADUs, a restriction or regulation imposed “shall be unreasonable” if the regulation or restriction, when applicable to a Protected Use ADU: (1) does not serve a legitimate Municipal interest sought to be achieved by local Zoning; (2) serves a legitimate Municipal interest sought to be achieved by local Zoning but its application to a Protected Use ADU does not rationally relate to the legitimate Municipal interest; or (3) serves a legitimate Municipal interest sought to be achieved by local Zoning and its application to a Protected Use ADU rationally relates to the interest, but compliance with the regulation or restriction will: (a) result in complete nullification of the use or development of a Protected Use ADU; (b) impose excessive costs on the use or development of a Protected Use ADU without significantly advancing the Municipality’s legitimate interest; or (c) substantially diminish or interfere with the use or development of a Protected Use ADU without appreciably advancing the Municipality’s legitimate interest.

⁸ This decision, as well as other recent ADU decisions, can be found on the Municipal Law Unit’s website at www.mass.gov/ago/munilaw (decision look up link) and then search by the topic pull down menu for the topic “ADUS.”

d. On a lot with a single-family residential dwelling unit, the ADU shall not have more restrictive dimensional standards, as defined in Dimensional Regulations Schedule, than those required for a single-family residential dwelling or accessory structure within the same zoning district, whichever results in more permissive regulations.

e. On a lot with a principal dwelling that is not a single-family residential dwelling unit, the ADU shall not have more restrictive dimensional standards than those required for a **single-family residential** dwelling or accessory structure, as defined in Dimensional Regulations Schedule, within the same zoning district, whichever results in more permissive regulation.

We disapprove the text shown above in bold and underline that imposes dimensional standards on a principal dwelling that is not a single-family dwelling that are the most permissive between only a single-family dwelling or an accessory structure (but not a principal dwelling) in the same zoning district, because this provision conflicts with the Regulations as explained below.

The Regulations require that any dimensional requirements imposed upon an ADU be the most permissive requirements between the *principal dwelling*, a single-family dwelling or an accessory structure. Specifically, 760 CMR 71.03 (3)(b)(2), “Regulation of Protected Use ADUs in Single-family Residential Zoning Districts;” “Dimensional Standards,” requires the Town to apply the most permissive dimensional standard, in relevant part as follows, with emphasis added:

(b) Municipality shall apply the analysis articulated in 760 CMR 71.03 (3)(a) to establish and apply reasonable Zoning or general...by-laws, or Municipal regulations for Protected Use ADUs, but in no case shall a restriction or regulation be found reasonable where it exceeds the limitations, or is inconsistent with provisions, described below, as applicable:...(2) Dimensional Standards. Any requirement concerning dimensional standards, such as dimensional setbacks, lot coverage, open space, bulk and height, and number of stories, that are more restrictive than is required for the Principal Dwelling, or a Single-family Residential Dwelling or accessory structure in the Zoning District in which the Protected Use ADU is located, whichever results in more permissive regulation, provided that a Municipality may not require a minimum Lot size for a Protected Use ADU.

Therefore, for a principal dwelling that is not a single-family dwelling, the dimensional standard imposed must be the most permissive between the *principal dwelling*, a single-family residential dwelling, or an accessory structure in the zoning district where the ADU is located. Because paragraph (e) would have imposed the most permissive dimensional requirement as between only the single-family residential dwelling or an accessory structure but did not include the principal dwelling in such requirement, it conflicts with the Regulations.

For this reason, we disapprove the words “single-family residential” shown above in bold and underline. The Town must ensure that the approved portions of Section 255-50 (C)(2)(e) that impose upon a principal dwelling that is not a single-family residential dwelling the most permissive dimensional standard as that required for a “dwelling or accessory structure” are applied consistent with the Regulations such that “dwelling” means the principal dwelling or a single-family residential dwelling. The Town should consult with Town Counsel with any questions regarding the proper application of Section 255-50 (C)(2)(e).

V. Additional Comments Regarding Text Approved Under Article 19

We approve the remaining amendments adopted under Article 19 and offer comments for the Town's consideration regarding certain provisions to ensure they are applied consistent with G.L. c. 40A, § 3 and the Regulations.

A. Section 255-50 (C) – Regulations – Site Plan

Section 255-50 (C), "Regulations," Subsection 1, "Procedural Requirements," paragraph (a) and (c) require site plan review, including for a new detached ADU. In addition, paragraph (c) provides that site plan review may not be denied except for "the failure to provide the required submittal requirements." The Town must ensure that these provisions are applied consistent with the Regulations, as explained below.

First, the Regulations, 760 CMR 71.03 (3) (5), prohibit a Town from imposing a site plan review requirement that is not "clear and objective or imposes terms and conditions that are unreasonable or inconsistent with an as-of-right process as defined in M.G.L. c. 40A, § 1A." Therefore any "submittal requirements," imposed as part of site plan review must be clear and objective. Second, for uses allowed as of right, such as a Protected Use ADU, site plan review is limited to the regulation of the use rather than its prohibition. Y.D. Dugout, Inc. v. Bd. of Appeals of Canton, 357 Mass. 25, 31 (1970).

Therefore, the scope of site plan approval for as of right uses is therefore limited to imposing reasonable terms and conditions on the use. Id. citing SCIT, Inc. v. Planning Bd. of Braintree, 19 Mass. App. Ct. 101, 107-110 (1984). "[W]here the proposed use is one permitted by right the planning board may only apply substantive criteria consistent with Prudential Ins. Co. v. Board of Appeals of Westwood, 23 Mass. App. Ct. 278 (1986) (i.e., it may impose reasonable terms and conditions on the proposed use, but it does not have discretionary power to deny the use)." Osberg v. Planning Bd. of Sturbridge, 44 Mass. App. Ct. 56, 59 (1997). "[I]f the specific area and use criteria stated in the by-law [are] satisfied, the board [does] not have discretionary power to deny...[approval], but instead [is] limited to imposing reasonable terms and conditions on the proposed use." Prudential, 23 Mass. App. Ct. at 281-282 (internal quotations and citations omitted). The Town should consult closely with Town Counsel when applying a site plan requirement to a Protected Use ADU, including the provisions of Section 255-50 (C)(1)(c), to ensure it is not applied in a manner that conflicts with the Dover protections afforded to an ADU.

B. Section 255-50 (C) – Regulations – Dimensional

Section 255-50 (C), "Regulations," Subsection 1, "Procedural Requirements," paragraph b authorizes the Building Inspector to grant a building permit for an ADU within or on a lot with a Principal Dwelling in a Single-Family Residential Zoning District (including within or on a lot with a preexisting nonconforming structure) "if the dimensional standards and off-street parking standards" of the by-law are met.

Although we approve this provision, we remind the Town that because a Protected Use ADU is a Dover Amendment protected use, the Town can only impose "reasonable regulations" on a Protected Use ADU. Moreover, because ADUs are a Dover Amendment protected use, the

Town cannot prohibit, unreasonably regulate or require a special permit or other discretionary zoning approval for the use of land or structures for a single ADU. Therefore, if an ADU cannot meet the “dimensional standards and off-street parking standards” because the requirement is unreasonable as applied, then the Town cannot impose these standards.

In addition, if a dimensional requirement is used in a manner to prohibit or unreasonably restrict a Protected Use ADU, such application would run afoul to the Dover amendment protections given to a Protected Use ADU under G.L. c. 40A § 3 and the Regulations. For this reason, the Town must ensure that these requirements are analyzed on a case by case basis as it relates to a particular property because in some circumstances the provision could be unreasonable as applied to a particular property. Lastly, the Town must ensure that the application of this requirement serves, and is rationally related to, a legitimate municipal interest and will not, as applied, result in a nullification, impose an excessive cost or substantially diminish or interfere with the use or development of a Protected Use ADU. See 760 CMR 71.03 (3)(a). If the Town cannot satisfy this standard, the regulation may be deemed to be unreasonable.

The Town should consult with Town Counsel to ensure the proper application of any dimensional requirements to a Protected Use ADU. The Town should consult with Town Counsel to ensure the proper application of these provisions to a Protected Use ADU.

VI. Conclusion

Except for a portion of Section 255-50 (C)(2)(e) that we disapprove, we approve the remainder of the amendments adopted under Article 19. However, the Town should consult closely with Town Counsel when applying these provisions to ensure they are applied consistent with G.L. c. 40A, § 3 and 760 CMR 71.00. If the provisions adopted under Article 19 are used to deny a Protected Use ADU, or otherwise applied in ways that constitute an unreasonable regulation in conflict with 760 CMR 71.03 (3), such application would violate G.L. c. 40A, § 3 and the Regulations. The Town should consult with Town Counsel and EOHLC to ensure that the approved by-law provisions are applied consistent with G.L. c. 40A, § 3 and the Regulations, as discussed herein.

Finally, we remind the Town of the requirements of 760 CMR 71.04, “Data Collection,” that requires municipalities to maintain certain records, as follows:

Municipalities shall keep a record of each ADU permit applied for, approved, denied, and issued a certificate of occupancy, with information about the address, square footage, type (attached, detached, or internal), estimated value of construction, and whether the unit required any variances or a Special Permit. Municipalities shall make this record available to EOHLC upon request.

The Town should consult with Town Counsel or EOHLC with any questions about complying with Section 71.04.

Article 16 - Under Article 16 the Town amended its general by-laws to add a new Chapter 140, “Old Firehouse Museum Local Historic District” that establishes a new historic district to be administered by the Historic District Commission (“Commission”), as provided for under G.L. c. 40C. The Old Firehouse Museum Local Historic District is identified in Section 130-13,

“Appendices,” and shown on a map entitled “Historic District – Old Firehouse.”

We approve Article 16, and the map adopted under Article 16, because it does not conflict with state law. See Amherst v. Attorney General, 398 Mass. 793, 795-96 (1986) (requiring inconsistency with state law or the Constitution for the Attorney General to disapprove a by-law). We will return the approved map to you by regular mail. Below, we offer comments for the Town’s consideration regarding certain approved portions of the new by-law.

A. Section 130-2 - Definitions

Section 130-2, “Definitions,” defines several terms used in the by-law including the terms: “Exterior Architectural Feature” and “Person Aggrieved” that are defined as follows (capitalization in the original):

Exterior Architectural Feature

Such portion of the exterior of a BUILDING or STRUCTURE as is open to view from a public way or ways, including but not limited to architectural style and general arrangement and setting thereof, the kind and texture of exterior building materials, and the type and style of windows, doors, lights, signs, and other appurtenant exterior fixtures.

Person Aggrieved

The applicant; an owner of adjoining property; an owner of property within the same DISTRICT area; an owner of property within 100 feet of said DISTRICT area; and any charitable corporation in which one of its purposes is the preservation of historic places, structures, BUILDINGS or districts.

The by-law’s definition of these terms differs in some respects from the definitions found in G.L. c. 40C, § 5, that define these terms as follows, with emphasis added:

Exterior architectural features

means such portion of the exterior of a building or structure as is open to view from a public street, public way, public park or public body of water, including but not limited to the architectural style and general arrangement and setting thereof, the kind, color and texture of exterior building materials, the color of paint or other materials applied to exterior surfaces^[9] and the type and style of windows, doors, lights, signs and other appurtenant exterior fixtures

Person aggrieved

means the applicant, an owner of adjoining property, an owner of property within the same historic district as property within one hundred feet of said property lines and any charitable corporation in which one of its purposes is the preservation of historic structures or districts

⁹ The by-law’s definition of “exterior architectural feature” excludes reference to the color of paint, presumably because Section 130-9, “Exclusions,” Subsection 9.1.4 excludes from the Commission’s purview “The color of paint.”

The by-law's definition of "Exterior Architectural Feature" excludes other public areas open to view including a public street, public park, or public body of water. In addition, the by-law's definition of "Person Aggrieved" is more expansive than the definition under G.L. c. 40C, § 5 in that it includes an owner of property within 100 feet of the district. The Town must ensure that the by-law, including the definitions in Section 130-2, are applied consistent with G.L. c. 40C, § 5. In addition, it is not clear whether a "Person Aggrieved" as defined in the by-law will have all the available remedies set forth in G.L. c. 40C, § 13 unless the person is also a "Person Aggrieved" under G.L. c. 40C, § 5. The Town should consult with Town Counsel on this issue. In addition, the Town should discuss with Town Counsel whether these definitions should be amended at a future Town Meeting to match the definitions provided in G.L. c. 40C, § 5.

B. Section 130-5 – Commission Powers and Duties

Section 130-5 (2) authorizes the Commission to adopt and amend reasonable rules and regulations "setting forth such forms and procedures as it deems desirable and necessary for the regulation of its affairs and the conduct of its business, including requirements for the contents and form of applications...fees, hearing procedures, and other matters." Any rules and regulations adopted by the Commission must be consistent with state law. See American Lithuanian Naturalization Club v. Board of Health of Athol, 446 Mass. 310, 321 (2006) ("A town may not promulgate a regulation that is inconsistent with State law."). The Town may wish to discuss with Town Counsel any proposed rules and regulations adopted under Section 130-5 to ensure that they comply with state law.

C. Filing Requirements of G.L. c. 40C

General Laws Chapter 40C, Section 3 requires the Town to file copies of the Historic District by-law and map with various state entities. In addition, G.L. c. 40C, § 15 requires all by-laws and amendments thereto creating a historic district, maps of the historic districts, and annual reports and other publications of Historic District Commission to be filed with the Massachusetts Historical Commission (MHC).¹⁰ The Town should discuss these filing requirements with Town Counsel to ensure that Town fully complies with the requirements of G.L. c. 40C.

Article 18 – Under Article 18 the Town amended several sections of its zoning by-laws to create a new "Village District Zoning District (Mixed-Use)" ("VD"). These amendments include: (1) amending Section 255-11, "Establishment of Districts," to add the VD; (2) amending Chapter 255, Attachment 1, "Use Regulations Schedule," to add the VD and indicate permitted and prohibited uses; (3) amend Chapter 255, Attachment 2, "Dimensional Regulations Schedule for Building and Structures," to add a dimensional table for principal and accessory uses in the VD district; (4) add a new Section 255-52, "Village District," and (5) amend the zoning map to rezone several parcels from the Business A-1, Residence A-1, and Residence A-2 Districts to the VD, all as shown in Appendix C to the Warrant.

The purpose of the new VD is "to encourage mixed-use development characterized by a mix of office, retail, entertainment, and residential uses consistent with the traditional scale,

¹⁰ General Laws Chapter 40C, Section 15 does not include a time period within which the MHC filing must be made and does not make the effective date of the by-law contingent on the MHC filing.

density, design, and mix of uses that characterize South Hadley's historic village centers in a manner that is pedestrian-friendly through high quality site planning, architecture, and landscape design." Section 255-52 (A), "Purpose." We approve the amendments adopted under Article 18 because they do not conflict with state law. See Amherst, 398 Mass. at 795-96. However, we offer comments for the Town's consideration regarding certain uses that are allowed as of right with site plan review in the VR to ensure that the site plan requirements are applied consistent with state law.

Section 255-52 (B), "Uses Permitted," allows uses in the "Village Common District"¹¹ as identified in Attachment 1, Use Regulations Schedule. Among the permitted uses subject to site plan review, are "[p]ublic and private nonprofit educational institutions" and "structures used for religious purposes." The Town must ensure that any site plan requirements for these G.L. c. 40A, § 3 Dover protected uses are applied consistent with state law, as explained below.

General Laws Chapter 40A, Section 3, commonly referred to as the "Dover amendment," provides zoning protections for certain uses, including educational and religious uses. See Trustees of Tufts College, 415 Mass. 753, 757 (1993) ("The Dover Amendment bars the adoption of a zoning ordinance or by-law that seeks to prohibit or restrict the use of land for [religious or] educational purposes.") Although site plan review of these uses is allowed, any imposed site plan review for a Dover Amendment protected uses is limited to the application of reasonable regulations provided in G.L. c. 40A, § 3. Jewish Cemetery Assoc. of Mass., Inc. v. Bd. of Appeals of Wayland, 85 Mass. App. Ct. 1105, *2 (2014) (upholding site plan review by-law applicable to Dover Amendment protected uses but limited to imposing reasonable regulations on protected uses). Specifically, G.L. c. 40A, § 3 provides in relevant part as follows:

No zoning...by-law...shall...prohibit, regulate or restrict the use of land or structures for religious purposes or for educational purposes...; provided, however, that such land or structures may be subject to reasonable regulations concerning the bulk and height of structures and determining yard sizes, lot area, setbacks, open space, parking and building coverage requirements.

Therefore, G.L. c. 40A, § 3 establishes that a Town by-law may not unreasonably regulate, prohibit, or require a special permit for certain protected uses, including educational uses or religious uses, but may impose reasonable regulations, including in the eight identified areas for religious and educational uses as follows: the bulk and height of structures, yard sizes, lot area, setbacks, open space, parking and building coverage requirements. See Trustees of Tufts Coll. V. City of Medford, 415 Mass. 753, 757-758 (1993) (citing MacNeil v. Town of Avon, 386 Mass. 339, 341 (1982) (Local zoning requirements serving "legitimate municipal purposes" may be applied to Dover Amendment uses).

In applying these site plan review requirements, the Town must ensure that its site plan

¹¹ We note that although the majority of amendments adopted under Article 18 refer to the "Village District" in some instances the by-law instead refers to the "Village Common District." See e.g. Section 255-52 (B) and Attachment 2, "Dimensional Regulation Schedule for Building and Structures." It appears that reference to "Village Commons" intends to refer to the new "Village District." However, to avoid any confusion, the Town may wish to consult with Town Counsel to determine if an amendment is needed at a future Town Meeting to address this issue.

approval requirements are not unreasonable or inconsistent with the site plan review process for Dover Amendment protected uses. See The Bible Speaks v. Board of Appeals of Lenox, 8 Mass. App. Ct. 19, 33 (1979) (town cannot require applicant to submit site plan and “informational statement” with details about its landscaping plans, projections about the increased impact on municipal services, and other details outside the scope of what the town could lawfully regulate under the Dover Amendment). The Town should consult with Town Counsel during the site plan review process to ensure consistency with state law, as detailed above.

Note: Pursuant to G.L. c. 40, § 32, neither general nor zoning by-laws take effect unless the Town has first satisfied the posting/publishing requirements of that statute.

Very truly yours,

ANDREA JOY CAMPBELL
ATTORNEY GENERAL

Nicole B. Caprioli

By: Nicole B. Caprioli
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cc: Town Counsel Lisa L. Mead

**Old Firehouse Museum Local Historic District Approved Bylaw
Annual Town Meeting April 14, 2025**

The Town of South Hadley hereby establishes the Old Firehouse Museum Local Historic District, to be administered by an Historic District Commission as provided for under Massachusetts General Laws Chapter 40C, as amended.

1. PURPOSE

The purpose of this bylaw is to aid in the preservation and protection of the distinctive characteristics and architecture of buildings and places significant in the history of the Town of South Hadley, the maintenance and improvement of their settings and the encouragement of new building designs compatible with the existing architecture.

2. DEFINITIONS

The terms defined in this section shall be capitalized throughout this Bylaw. Where a defined term has not been capitalized, it is intended that the meaning of the term be the same as the meaning ascribed to it in this section unless another meaning is clearly intended by its context. As used in this Bylaw the following terms shall have the following meaning:

ALTERATION, TO ALTER – The act or the fact of rebuilding, reconstruction, restoration, replication, removal, demolition, and other similar activities.

BUILDING – A combination of materials forming a shelter for persons, animals or property.

CERTIFICATE – A Certificate of Appropriateness, a Certificate of Non-Applicability, or a Certificate of Hardship as set forth in this Bylaw.

COMMISSION – The Historic District Commission as established in this Bylaw.

CONSTRUCTION, TO CONSTRUCT – The act or the fact of building, erecting, installing, enlarging, moving and other similar activities.

DISPLAY AREA – The total surface area of a SIGN, including all lettering, wording, designs, symbols, background and frame, but not including any support structure or bracing incidental to the SIGN. The DISPLAY AREA of an individual letter SIGN or irregular shaped SIGN shall be the area of the smallest rectangle into which the letters or shape will fit. Where SIGN faces are placed back to back and face in opposite directions, the DISPLAY AREA shall be defined as the area of one face of the SIGN.

DISTRICT – The Local Historic District as established in this Bylaw consisting of one or more DISTRICT areas.

EXTERIOR ARCHITECTURAL FEATURE – Such portion of the exterior of a BUILDING or STRUCTURE as is open to view from a public way or ways, including but not limited to architectural style and general arrangement and setting thereof, the kind and texture of exterior building materials, and the type and style of windows, doors, lights, signs and other appurtenant exterior fixtures.

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PERSON AGGRIEVED – The applicant; an owner of adjoining property; an owner of property within the same DISTRICT area; an owner of property within 100 feet of said DISTRICT area; and any charitable corporation in which one of its purposes is the preservation of historic places, structures, BUILDINGS or districts.

SIGNS – Any symbol, design or device used to identify or advertise any place of business, product, activity or person.

STRUCTURE – A combination of materials other than a BUILDING, including but not limited to a SIGN, fence, wall, terrace, walk or driveway.

TEMPORARY STRUCTURE or BUILDING – A BUILDING not to be in existence for a period of more than two years. A STRUCTURE not to be in existence for a period of more than one year. The COMMISSION may further limit the time periods set forth herein as it deems appropriate.

3. DISTRICT

The DISTRICT shall consist of one DISTRICT area as listed in Section 13 (Appendices) of this Bylaw.

4. COMMISSION

4.1 The DISTRICT shall be overseen by a COMMISSION consisting of seven members, to be appointed by the Selectboard, two members initially to be appointed for one year, two for two years, and two for three years, and each successive appointment to be made for three years.

4.2 The COMMISSION shall include, if possible, one member from two nominees solicited from the South Hadley Historical Society, one member from two nominees solicited from the chapter of the American Institute of Architects covering South Hadley; one member from two nominees solicited from licensed realtors covering South Hadley; and a representative of the Old Firehouse Museum Board of Trustees appointed by the Selectboard. If within thirty days after submission of a written request for nominees to any of the organizations herein named insufficient nominations have been made, the Selectboard may proceed to make appointments as it desires.

4.3 The Selectboard may appoint up to four alternate members to the COMMISSION. Each alternate member shall have the right to act and vote in the place of one regular member should such regular member be absent from a meeting or be unwilling or unable to act or vote. Said alternate members shall initially be appointed for terms of two or three years, and for three year terms thereafter.

4.4 Each member and alternate member shall continue to serve in office after the expiration date of his or her term until a successor is duly appointed.

4.5 Meetings of the COMMISSION shall be held at the call of the Chair, at the request of two members and in such other manner as the COMMISSION shall determine in its Rules and Regulations.

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4.6 Four members of the COMMISSION shall constitute a quorum.

5. COMMISSION POWERS AND DUTIES

5.1 The COMMISSION shall exercise its powers in administering and regulating the CONSTRUCTION and ALTERATION of any STRUCTURES or BUILDINGS within the DISTRICT as set forth under the procedures and criteria established in this Bylaw. In exercising its powers and duties hereunder, the COMMISSION shall pay due regard to the distinctive characteristics of each BUILDING, STRUCTURE and DISTRICT area.

5.2 The COMMISSION may adopt, and from time to time amend, reasonable Rules and Regulations not inconsistent with the provisions of this Bylaw or M.G.L. Chapter 40C, setting forth such forms and procedures as it deems desirable and necessary for the regulation of its affairs and the conduct of its business, including requirements for the contents and form of applications for CERTIFICATES, fees, hearing procedures and other matters. The COMMISSION shall file a copy of any such Rules and Regulations with the office of the Town Clerk.

5.3 The COMMISSION, after a public hearing duly posted and advertised at least 14 days in advance in a conspicuous place in Town Hall and in a news source of general circulation in South Hadley such as the Town Reminder, may adopt and from time to time amend guidelines which set forth the designs for certain EXTERIOR ARCHITECTURAL FEATURES which are, in general, suitable for the issuance of a CERTIFICATE. No such design guidelines shall limit the right of an applicant for a CERTIFICATE to present other designs to the COMMISSION for approval.

5.4 The COMMISSION shall at the beginning of each fiscal year hold an organizational meeting and elect a Chair, a Vice Chair and Secretary, and file notice of such election with the office of the Town Clerk.

5.5 The COMMISSION shall keep a permanent record of its resolutions, transactions, decisions and determinations and of the vote of each member participating therein.

5.6 The COMMISSION shall undertake educational efforts to explain to the public and property owners the merits and functions of a DISTRICT.

6. ALTERATIONS AND CONSTRUCTION PROHIBITED WITHOUT A CERTIFICATE

6.1 Except as this Bylaw provides, no BUILDING or STRUCTURE or part thereof within a DISTRICT shall be CONSTRUCTED or ALTERED in any way that affects the EXTERIOR ARCHITECTURAL FEATURES as visible from a public way, unless the COMMISSION shall first have issued a CERTIFICATE with respect to such CONSTRUCTION or ALTERATION.

6.2 No building permit for CONSTRUCTION of a BUILDING or STRUCTURE or for ALTERATION of an EXTERIOR ARCHITECTURAL FEATURE within a DISTRICT and no demolition permit for demolition or removal of a BUILDING or STRUCTURE within a DISTRICT shall be issued by the Town or any

**Old Firehouse Museum Local Historic District Approved Bylaw
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department thereof until a CERTIFICATE as required under this Bylaw has been issued by the COMMISSION.

7. PROCEDURES FOR REVIEW OF APPLICATIONS

7.1 Any person who desires to obtain a CERTIFICATE from the COMMISSION shall file with the COMMISSION an application for a CERTIFICATE of Appropriateness, of Non-Applicability or of Hardship, as the case may be. The application shall be accompanied by such plans, elevations, specifications, material and other information, including in the case of demolition or removal a statement of the proposed condition and appearance of the property thereafter, as may be reasonably deemed necessary by the COMMISSION to enable it to make a determination on the application.

7.2 The COMMISSION shall determine within fourteen (14) days of the filing of an application for a CERTIFICATE whether said application involves any EXTERIOR ARCHITECTURAL FEATURES which are within the jurisdiction of the COMMISSION.

7.3 If the COMMISSION determines that an application for a CERTIFICATE does not involve any EXTERIOR ARCHITECTURAL FEATURES, or involves an EXTERIOR ARCHITECTURAL FEATURE which is not subject to review by the COMMISSION under the provisions of this Bylaw, the COMMISSION shall forthwith issue a CERTIFICATE of Non-Applicability.

7.4 If the COMMISSION determines that such application involves any EXTERIOR ARCHITECTURAL FEATURE subject to review under this Bylaw, it shall hold a public hearing on the application, except as may otherwise be provided in this Bylaw. The COMMISSION shall hold such a public hearing within forty-five (45) days from the date of the filing of the application. At least fourteen (14) days before said public hearing, public notice shall be given by posting in a conspicuous place in Town Hall and in a news source of general circulation in South Hadley such as the Town Reminder. Such notice shall identify the time, place and purpose of the public hearing. Concurrently, a copy of said public notice shall be mailed to the applicant, to the owners of all adjoining properties and of other properties deemed by the COMMISSION to be materially affected thereby, all as they appear on the most recent applicable tax list, to the Planning Board, to any person filing a written request for notice of hearings, such request to be renewed yearly in December, and to such other persons as the COMMISSION shall deem entitled to notice.

7.4.1 A public hearing on an application for a CERTIFICATE need not be held if such hearing is waived in writing by all persons entitled to notice thereof. In addition, a public hearing on an application for a CERTIFICATE may be waived by the COMMISSION if the COMMISSION determines that the EXTERIOR ARCHITECTURAL FEATURE involved, or its category, is so insubstantial in its effect on the DISTRICT that it may be reviewed by the COMMISSION without a public hearing. If the COMMISSION dispenses with a public hearing on an application for a CERTIFICATE, notice of such application shall be given to the owners of all adjoining property and of other property deemed by the COMMISSION to be materially affected thereby as above provided, and ten (10) days shall elapse after the mailing of such notice before the COMMISSION may act upon such application.

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7.5 Within sixty (60) days after the filing of an application for a CERTIFICATE, or within such further time as the applicant may allow in writing, the COMMISSION shall issue a CERTIFICATE or a disapproval. In the case of a disapproval of an application for a CERTIFICATE, the COMMISSION shall set forth in its disapproval the reasons for such disapproval. The COMMISSION may include in its disapproval specific recommendations for changes in the applicant's proposal with respect to the appropriateness of design, arrangement, texture, material and similar features which, if made and filed with the COMMISSION in a subsequent application, would make the application acceptable to the COMMISSION.

7.6 The concurring vote of a majority of the members shall be required to issue a CERTIFICATE.

7.7 In issuing CERTIFICATES, the COMMISSION may, as it deems appropriate, impose certain conditions and limitations, and may require architectural or plan modifications consistent with the intent and purpose of this Bylaw.

7.8 If the COMMISSION determines that the CONSTRUCTION or ALTERATION for which an application for a CERTIFICATE of Appropriateness has been filed will be appropriate for or compatible with the preservation or protection of the DISTRICT, the COMMISSION shall issue a CERTIFICATE of Appropriateness.

7.9 If the CONSTRUCTION or ALTERATION for which an application for a CERTIFICATE of Appropriateness has been filed shall be determined to be inappropriate and therefore disapproved, or in the event of an application for a CERTIFICATE of Hardship, the COMMISSION shall determine whether, owing to conditions especially affecting the BUILDING or STRUCTURE involved, but not affecting the DISTRICT generally, failure to approve an application will involve a substantial hardship, financial or otherwise, to the applicant and whether such application may be approved without substantial detriment to the public welfare and without substantial derogation from the intent and purposes of this Bylaw. If the COMMISSION determines that owing to such conditions failure to approve an application will involve substantial hardship to the applicant and approval thereof may be made without such substantial detriment or derogation, the COMMISSION shall issue a CERTIFICATE of Hardship.

7.10 The COMMISSION shall send a copy of its CERTIFICATES and disapprovals to the applicant and shall file a copy of its CERTIFICATES and disapprovals with the office of the Town Clerk and the Building Commissioner. The date of issuance of a CERTIFICATE or disapproval shall be the date of the filing of a copy of such CERTIFICATE or disapproval with the office of the Town Clerk.

7.11 If the COMMISSION should fail to issue a CERTIFICATE or a disapproval within sixty (60) days of the filing of the application for a CERTIFICATE, or within such further time as the applicant may allow in writing, the COMMISSION shall thereupon issue a CERTIFICATE of Hardship Due to Failure to Act.

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7.12 Each CERTIFICATE issued by the COMMISSION shall be dated and signed by its Chair or such other person designated by the COMMISSION to sign such CERTIFICATES on its behalf.

7.13 A PERSON AGGRIEVED by a determination of the COMMISSION may, within twenty (20) days of the issuance of a CERTIFICATE or disapproval, file a written request with the COMMISSION for a review by a person or persons of competence and experience in such matters, acting as arbitrator and designated by the regional planning agency. The finding of the person or persons making such review shall be filed with the Town Clerk within forty-five (45) days after the request, and shall be binding on the applicant and the COMMISSION, unless a further appeal is sought in the Superior Court as provided in Chapter 40C, Section 12A. The filing of such further appeal shall occur within twenty (20) days after the finding of the arbitrator has been filed with the office of the Town Clerk.

8. CRITERIA FOR DETERMINATIONS

8.1 In deliberating on applications for CERTIFICATES, the COMMISSION shall consider, among other things, the historic and architectural value and significance of the site, BUILDING or STRUCTURE; the general design, proportions, detailing, mass, arrangement, texture, and material of the EXTERIOR ARCHITECTURAL FEATURES involved; and the relation of such EXTERIOR ARCHITECTURAL FEATURES to similar features of BUILDINGS and STRUCTURES in the surrounding area.

8.2 In the case of new CONSTRUCTION or additions to existing BUILDINGS or STRUCTURES, the COMMISSION shall consider the appropriateness of the scale, shape and proportions of the BUILDING or STRUCTURE both in relation to the land area upon which the BUILDING or STRUCTURE is situated and in relation to BUILDINGS and STRUCTURES in the vicinity. The COMMISSION may in appropriate cases impose dimensional and setback requirements in addition to those required by applicable statute or bylaw.

8.3 When ruling on applications for CERTIFICATES on solar energy systems as defined in Section IA of Chapter 40A, the COMMISSION shall consider the policy of the Commonwealth of Massachusetts to encourage the use of solar energy systems and to protect solar access.

8.4 The COMMISSION shall not consider interior arrangements or architectural features not subject to public view from a public way.

9. EXCLUSIONS

9.1 The COMMISSION shall exclude from its purview the following:

9.1.1 Temporary BUILDINGS, STRUCTURES or SIGNS subject, however, to conditions pertaining to the duration of existence and use, location, lighting, removal and similar matters as the COMMISSION may reasonably specify. Consideration would be given to educational displays and resources useful for the mission of the Museum and District.

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9.1.2 Terraces, walks, driveways, sidewalks and similar STRUCTURES, provided that any such STRUCTURE is substantially at grade level.

9.1.3 Storm windows and doors, screen windows and doors, and window air conditioners.

9.1.4 The color of paint.

9.1.5 The color of materials used on roofs.

9.1.6 Signs of not more than two (2) square feet in DISPLAY AREA in-connection with use of a residence for a customary home occupation or for professional purposes, provided only one such sign is displayed in connection with each residence and if illuminated is illuminated only indirectly; and one sign in connection with the nonresidential use of each BUILDING or STRUCTURE which is not more than six (6) square feet in DISPLAY AREA, consists of letters painted on wood without symbol or trademark and if illuminated is illuminated indirectly.

9.1.7 The reconstruction, substantially similar in exterior design, of a BUILDING, STRUCTURE or EXTERIOR ARCHITECTURAL FEATURE damaged or destroyed by fire, storm or other disaster, provided such reconstruction is begun within one year thereafter and carried forward with due diligence.

9.2 Upon request the COMMISSION shall issue a CERTIFICATE of Non-Applicability with respect to CONSTRUCTION or ALTERATION in any category not subject to review by the COMMISSION in accordance with the above provisions.

9.3 Nothing in this Bylaw shall be construed to prevent the ordinary maintenance, repair or replacement of any EXTERIOR ARCHITECTURAL FEATURE within a DISTRICT which does not involve a change in design, material or the outward appearance thereof, nor to prevent landscaping with plants, trees or shrubs, nor construed to prevent the meeting of requirements certified by a duly authorized public officer to be necessary for public safety because of an unsafe or dangerous condition, nor construed to prevent any CONSTRUCTION or ALTERATION under a permit duly issued prior to the effective date of this Bylaw.

10. CATEGORICAL APPROVAL

The COMMISSION may determine from time to time after a public hearing, duly advertised and posted at least fourteen (14) days in advance in a conspicuous place in Town Hall and in a news source of general circulation in South Hadley such as the Town Reminder, that certain categories of EXTERIOR ARCHITECTURAL FEATURES, STRUCTURES or BUILDINGS under certain conditions may be CONSTRUCTED or ALTERED without review by the COMMISSION without causing substantial derogation from the intent and purpose of this Bylaw.

11. ENFORCEMENT AND PENALTIES

11.1 The COMMISSION shall determine whether a particular activity is in violation of this Bylaw or not, and the COMMISSION shall be charged with the enforcement of this Bylaw.

**Old Firehouse Museum Local Historic District Approved Bylaw
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11.2 The COMMISSION, upon a written complaint of any resident of South Hadley, or owner of property within South Hadley, or upon its own initiative, shall institute any appropriate action or proceedings in the name of the Town of South Hadley to prevent, correct, restrain or abate violation of this Bylaw. In the case where the COMMISSION is requested in writing to enforce this Bylaw against any person allegedly in violation of same and the COMMISSION declines to act, the COMMISSION shall notify, in writing, the party requesting such enforcement of any action or refusal to act and the reasons therefore, within twenty one (21) days of receipt of such request.

11.3 Whoever violates any of the provisions of this Bylaw shall be punishable by a fine of \$25.00 to \$200.00 for each offense, payable to a fund for the preservation of the DISTRICT. Each day during any portion of which such violation continues to exist shall constitute a separate offense.

11.4 The COMMISSION may designate the Building Commissioner of the Town of South Hadley to act on its behalf and to enforce this Bylaw under the direction of the COMMISSION.

12. VALIDITY AND SEPARABILITY

The provisions of this Bylaw shall be deemed to be separable. If any of its provisions, sections, subsections, sentences or clauses shall be held to be invalid or unconstitutional by any court of competent jurisdiction, the remainder of this Bylaw shall continue to be in full force and effect.

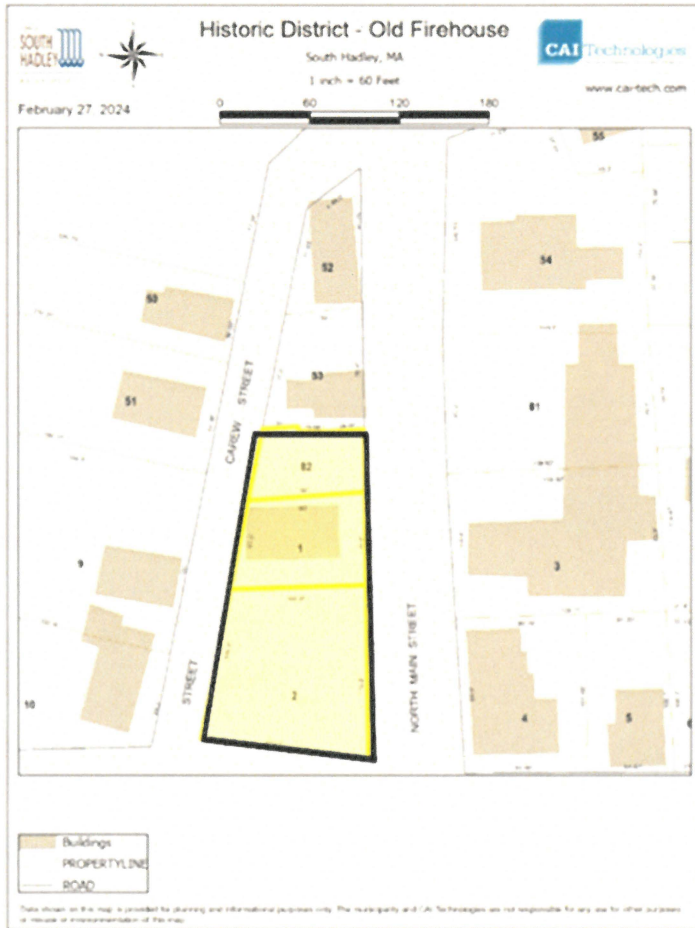
13. APPENDICES

Appendix 1:

South Hadley Old Firehouse Museum District

The South Hadley Old Firehouse Museum District shall be a DISTRICT area under this Bylaw. The Location and boundaries of the South Hadley Old Firehouse Museum District are defined and shown on the Local Historic District Map of the Town of South Hadley, which is a part of this Bylaw. Sheet 1 is based on the current Assessor's map and is current to January 1, 2023. The delineation of the DISTRICT area boundaries is based on the parcel boundaries then in existence and shown therein, except as otherwise apparent on Sheet 1.

Old Firehouse Museum Local Historic District Approved Bylaw
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Sheet 1: Proposed boundaries of the South Hadley
Old Firehouse Museum Local Historic District

, or take any other action relative thereto:

Attachment C
Proposed Zoning Bylaw and Zoning Map Amendment REV 2025-04-22

To see if Town Meeting will vote to amend Chapter 255 Zoning Bylaw including the Zoning Map as follows:

1. In § 255-11 “Establishment of districts.” Insert a new district as follows:

Village District (“VD”) Zoning District (Mixed-Use). The purpose of this district is to encourage mixed-use development characterized by a mix of office, retail, entertainment, and residential uses consistent with the traditional scale, density, design, and mix of uses that characterize South Hadley's historic village centers in a manner that is pedestrian-friendly through high-quality site planning, architecture, and landscape design.

2. In Attachment 1, Use Regulations Schedule by inserting the Village District (VD) and indicate the uses which are permitted/prohibited as follows:

- a) In the “Residential Uses” category, indicate that only the following uses are permitted:

- 1) Two-family dwellings (new)
- 2) Three-family dwellings
- 3) Multifamily dwellings for more than three families/g

- b) In the “Residential Uses” category, indicate that all other uses are prohibited.

- c) In the “Residential Uses” category, insert the following footnote:

Allowed residential uses are only permitted by Site Plan Review and as part of a Mixed-Use development or as a proposed addition to an existing "Mixed Use Development" as detailed in § 255-52.

- d) In the “Open Space Uses” category, indicate that only “Agricultural, horticultural, or floricultural uses” exempt under MGL Chapter 40A, Section 3 are permitted.

- e) In the “Open Space Uses” category, insert the following footnote:

This restriction regarding “Agricultural, horticultural, or floricultural uses” is not to be interpreted as a prohibition on temporary, special events which may include agricultural related activities such as, but not limited to, farmers markets or outdoor concerts. Such other temporary events may be permitted in

Attachment C

accordance with the approved Mixed-Use plan and applicable Bylaws, statutes, and regulations.

f) In the “Public and Institutional Uses” category indicate the following uses are permitted by Site Plan Review:

- 1) Town buildings
- 2) Public and private nonprofit educational institutions/d/f
- 3) Structures used for religious purposes/e/f
- 4) Federal and state government buildings
- 5) Public playgrounds and parks
- 6) Clubs, lodges, social and community center buildings
- 7) Hospitals, sanitariums, and charitable services

g) In the “Public and Institutional Uses” category, note that the allowed uses are only permitted by Site Plan Review.

h) In the “Public and Institutional Uses” category, insert the following footnote:

Allowed uses are only permitted as part of a Mixed-Use development as detailed in § 255-52 unless they are exempt under MGL Chapter 40A, Section 3.

i) In the “Business Uses” category, insert the use “Indoor Theater” and “Financial Institution including or separate ATM”

j) In the “Business Uses” category indicate the following uses are permitted by Site Plan Review:

- 1) Retail sales
- 2) Personal, business, and professional services
- 3) Open-air parking for 25 vehicles or fewer/d
- 4) Public parking areas and garages (unrestricted capacity)
- 5) Offices
- 6) Motels – hotels
- 7) Restaurants

k) In the “Business Uses” category, indicate that all other uses are prohibited.

l) In the “Business Uses” category, insert the following footnote:

Attachment C

Allowed uses are only permitted by Site Plan Review and as part of a Mixed-Use development as detailed in § 255-52.

- m) In the “Industrial Uses” category indicate that all listed uses are prohibited.
- n) In the “Other Uses” category, indicate that only the following uses are permitted By Site Plan Review:

Accessory uses to permitted principal uses, as provided in Article VII Other earth removal, extraction, and/or fill activities/b

- o) In the “Other Uses” category, indicate that all other uses are prohibited.
- p) In the “Other Uses” category, insert the following footnote:

Allowed uses are only permitted if consistent with the Mixed-Use Development’s approved Site Plan as detailed in § 255-52.

- 3. In Attachment 2, Dimensional Regulations Schedule for Buildings and Structures by inserting the following table for Village District (VC) specifying the following Basic requirements for Principal Uses and Accessory Uses including the associated footnotes

Zoning District - Requirement	Minimum Lot Area (square feet)	Minimum Lot Frontage (feet)	Maximum Building Coverage (%)	Maximum Impervious Coverage (%)	Minimum Yard Setback (feet)			Maximum Height	
					Front	Side	Rear	Stories	Feet
Village Commons Zoning District									
Basic requirements:									
- Principal uses	87,120/a	50	75/a/b	85%/a/b	0/a	6/a	5/a	4/5/a	65/a
- Accessory uses/a	None	None	25/a/b	95%/a/b	0/a	6/a	5/a	4/5/a	65/a

NOTES:

- a. In accordance with the provisions of § 255-52.
- b. Total building coverage of principal and accessory uses shall not exceed the principal use coverage.

Attachment C

4. In Article VII Supplemental District Regulations”, insert a new §255-52 “Village District” to read as follows:
 - A. Purpose

The purpose of this district is to encourage mixed-use development characterized by a mix of office, retail, entertainment, and residential uses consistent with the traditional scale, density, design, and mix of uses that characterize South Hadley's historic village centers in a manner that is pedestrian-friendly through high-quality site planning, architecture, and landscape design.
 - B. Uses permitted. Uses permitted Village Common District are as listed in Attachment 1, Use Regulations Schedule.
 - C. Dimensional requirements. Dimensional requirements are as listed in Attachment 2, Dimensional Regulations Schedule for Buildings and Structures as supplemented and clarified upon in this § 255-52.
 - (1) Building Heights
 - (a) The Maximum building height as provided in Attachment 2 is not to exceed 5 stories as provided below. The variable maximum height provided in Attachment 2 is permitted to reflect the variation in ground elevation and elevation of Route 116 relative to the Village District.
 - (b) The variable story height limitation is to be interpreted and administered as follows:
 - [1] Portions of buildings occupied by dwelling units or business uses shall not exceed 5 stories. However,
 - [a] One story providing drive under parking and/or enclosure of building support equipment may also be provided.
 - [b] To enhance the aesthetic appearance of the building and/or to better enable use of the roof for solar energy collecting/generating operation, use of an enclosed “story” exclusively or primarily for housing of mechanical equipment or other facilities necessary for the building’s operation shall not be counted as one of the permitted “stories”.
 - [2] No building or portion thereof lying within 150 feet of Route 116 shall exceed 4 stories, except as provided in 255-52C(1)(b)[3] below.
 - [3] Where a building is located on grades which diminish as the site gets further away from Route 116, the building height may vary with the portion further away and not visible from Route 116 being allowed to be one story higher than the portion of the building nearest Route 116 up to the maximum height (in feet) as provided in Attachment 2.
 - [4] To accommodate screening of rooftop uses and equipment, measurement of building height shall not include such screening elements.

Attachment C

- D. Site Plan Review. Development in the Village District is subject to Site Plan Review as provided in Article XII of this Zoning Bylaw and as further modified herein.
- (1) Design Review is to be incorporated into the Site Plan Review process, so the integration of the uses and design are collectively reviewed. Design Review is the process of reviewing the architectural and site plans to determine if the project is consistent with the provisions of § 255-52 J. Design Standards and any Mandatory Design Standards and Advisory Design Guidelines adopted pursuant to said § 255-52 J.
 - (2) Once Site Plan is approved and the buildings are constructed to completion and occupancy permits have been issued, further site plan review for location of individual uses within an approved building space is not required; provided the development maintains compliance with the approved site plan and this §255-52.
 - (a) Exception. Conversion of Business Use space to a Residential Use space will require Site Plan Review.
 - (b) The Planning Board may, in their Site Plan Review Rules and Regulations provide that any “post-approval” Site Plan Reviews will be processed as “Minor Site Plan Review”.
- E. Residential Development
- (1) Dwelling units are permitted only as an integral part of a mixed-use development. The dwelling units may be provided either in a mixed-use building or a separate “residential only” building in accordance with this § 255-52.
 - (2) Density. The maximum number of dwelling units permitted shall be determined as follows:
 - (a) A minimum of 3,000 square feet of land area for each dwelling unit located thereon plus 300 square feet of land area per bedroom in each dwelling unit.
 - (b) Given the integrated design and nature of the multi-use development, calculation of the allowed number of dwelling units shall consider the entire mixed-use development site.
 - (3) Placement of dwellings. No dwelling units are to be located on first floor of any building fronting on Route 116.
 - (a) Waiver Permitted. The Planning Board may grant a waiver from this provision if the finished grade declines from the front of the building to the rear of the building by an amount of no less than eight (8) feet. In such an event, the Planning Board may permit dwelling units on the ground floor of this building provided it is located to the rear of the building and the entrance is not visible from Route 116.

Attachment C

- (4) No entrance to a building or dwelling shall be greater than 100 feet from an access street or drive, or greater than 200 feet from an off-street parking area which shall be located on the same lot or tract of land.

F. Minimum Development Site

- (1) The minimum parcel size for development in the Village District must be sufficient for a mixed-used building. Therefore, the minimum parcel size in the Village District is 87,120 square feet.
- (2) This minimum parcel size does not apply to a “lease pad” which may be used for placement of equipment or “minor” facilities (such as, an ATM, walk up kiosk, etc.).

G. Mixed Use Development

- (1) The Village District is intended to accommodate the incorporation of buildings with an internal mix of businesses and residences as well as free standing buildings which are exclusive to business or residential uses on a single parcel. However, the intent of the Village District is to have development in which varied uses are integrated together and are mutually supportive. Applicants for Site Plan Review/Design Standards Review must demonstrate how the mixture of uses supports the Village District purpose.
 - (a) Buildings with no residential occupancy must be developed and operated in common with other mixed-used and residential-only buildings in accordance with an approved site plan and management plan.
 - (b) A schedule for development of the mixed uses is to be provided as part of the Site Plan Review submission and incorporated into the Planning Board decision.
 - (c) Infrastructure is to be provided which interconnects all of the buildings and uses areas on the development site.
 - (d) There is not a mandated ratio of residential to business square footage in the Village District; however, the Planning Board may incorporate advisory guidelines regarding such ratios into their Rules and Regulations based on robust objective research and public involvement.

H. Parking

- (1) All developments must conform to the requirements for off-street parking and loading areas as specified in § 255-86 of this Zoning Bylaw.
- (2) Shared Parking. Consistent with the nature of New England village centers, the purposes of this § 255-52, and § 255-86, parking provisions for mixed-use developments in the Village District are encouraged to incorporate shared-parking arrangements between uses and entities. Strict application of the “provisional standards” for each use is not appropriate. Applicants for mixed-use developments shall sufficiently demonstrate that the quantity and layout of the parking plan for the proposed development is appropriate.

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- (3) Parking needs for the residential dwelling units may be partially satisfied by the parking provided for the commercial building space if the Planning Board determines that the shared parking will be sufficient to meet the needs of the residential and commercial uses.

I. Signs

- (1) Except as provided herein, all signs are to conform to the signage requirements as specified in § 255-85 of this Zoning Bylaw.
 - (a) Exception. As part of the Site Plan Review/Design Standards Review for a mixed-use development, applicants may submit, and the Planning Board may approve a comprehensive signage plan which ensures that signage is context sensitive to the proposed development. Applicants must demonstrate to the Planning Board's satisfaction that the variations from 255-85 are supported by the proposed designs and are in keeping with the purpose of the Village District.

J. Design Standards

- (1) Overview and Authorization
 - (a) The Village District is intended to be developed in an architectural and integrated style compatible with the Village Commons as it exists in 2025. This site has variable grades associated with decreasing elevations as the site departs the Route 116 roadway westerly. Recognizing the intent of the District and the existing conditions, consideration of design during the plan review process is essential.
 - (b) The Planning Board may adopt and amend, by simple majority vote, Mandatory Design Standards which shall be applicable to all Projects.
 - (c) Mandatory Design Standards must be objective and not subjective, clear but sufficiently flexible to address the needs of the project, the community, and the neighborhood consistent with the Purpose of the Village District, and may only address:
 - [1] Scale and proportions of buildings;
 - [2] Alignment, width, and grade of accessways, drives, and sidewalks;
 - [3] Type and location of publicly maintained infrastructure;
 - [4] Location of building and garage entrances, off-street parking;
 - [5] Protection of significant natural site features;
 - [6] Location and design of on-site open spaces and landscaping,
 - [7] Exterior signs; and
 - [8] Screening and Buffering in relation to adjacent properties and roadways.
 - (d) Design Standards must address the topics in the context of the purpose of the Village District.
 - (e) Advisory Design Guidelines. The Planning Board may adopt suggestive design guidelines which amplify, clarify aspects of this § 255-52J and

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address issues which the Planning Board determines are essential to achieving the purpose of the district but are not adequately addressed within § 255-52.

(2) Design Principles

- (a) Promote family-friendly walkable village center that predominantly serves local residents and visitors while accommodating all street users;
 - (b) Pedestrian access and safety by encouraging design strategies to reduce conflicts between drivers and pedestrians;
 - (c) Reduce negative impacts on the natural environment from stormwater overflow and lighting glare or overspill;
 - (d) Support a consistent level of design for a complementary mix of uses within the Village District;
 - (e) The public realm should be characterized by street trees, street furniture, sidewalks with ample width for diverse users, and attractive furnishings and infrastructure;
 - (f) Architectural design shall be compatible with the character and scale of buildings in the Town's traditional village centers. Variation in detail, form and siting shall be used to provide visual interest and avoid monotony. Proposed buildings shall relate harmoniously to each other with adequate light, air, circulation and separation between buildings. The Planning Board may take into consideration whether exterior building facades and materials are consistent with South Hadley's character. The Planning Board may consider whether the roofline is peaked or is otherwise consistent with the Town's character.
5. On the "Zoning Map" incorporated into the Zoning Bylaw by § 255-12, change the zoning on the following parcel from Business A-1, Residence A-2, and Residence A-1 to the "Village District" zoning district:

A 7.810+/- acre parcel (see Attachment A) generally referenced as "The Village Commons" and depicted on the attached ANR Plan endorsed by the Planning Board at their January 13, 2025 meeting (and recorded in the Hampshire County Registry of Deeds on January 24, 2025 at Page 77 in Book 257) and more particularly described as follows:

- Bounded on the east by Hadley Street (Route 47)
- On the south by "College Street" for approximately 389 feet;
- On the south and west by parcels owned by Mount Holyoke College and depicted on Parcels 85 and 86 on Assessors

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Map 49 and Parcel 65 as depicted on Assessors Map 47;
and,

- On the north by Parcel 64 as depicted on Assessors Map 47 and Parcels 63, 64, and 68 as depicted on Assessors Map 49.

**Article 19 Zoning Bylaw Amendment
Chapter 255-50 Accessory Dwelling Units
ATM May 2025**

AC Edits – Response to AG Comments – 11/7/25

ARTICLE 19: To see if the Town will vote to amend the Zoning Bylaw Chapter 255 in regard to Accessory Dwelling Units by amending: Section 255-10 Terms Defined to insert various terms and their definitions, and amend the definition of Accessory Dwelling Unit; and, Chapter 255 Article VII Supplemental District Regulations by repealing subsection 255-50 Accessory Dwelling Units and inserting a replacement subsection 255-50 Accessory Dwelling Units, as further articulated in the Planning Board’s Report to Town Meeting (Appendix D), and change subsection 255-50 C(1) by adding ".failure to provide the required submittal requirements", or take any other action relative there to.

The proposed amendments are as follows:

- 1. Amend Section 255-10 Terms Defined of the South Hadley Zoning Bylaw by adding the following terms, and amending the following definitions:**

[New text underlined and highlighted; Deleted text ~~strikethrough~~]

§ 255-10. Terms defined.

As used in this bylaw, the following terms shall have the meanings indicated:

ACCESSORY DWELLING UNIT (ADU) — ~~(definition from MGL c.40A, § 1A)~~

A self-contained housing unit, inclusive of sleeping, cooking and sanitary facilities, on the same lot as a

principal dwelling, subject to otherwise applicable dimensional and parking requirements, that:

- i) maintains a separate entrance, either directly from the outside or through an entry hall or corridor shared with the principal dwelling sufficient to meet the requirements of the state building code for safe egress;
- ii) is not larger in Gross Floor Area ~~floor area~~ than 1/2 the Gross Floor Area ~~floor area~~ of the principal dwelling or 900 square feet, whichever is smaller; and
- iii) is subject to such additional restrictions as described herein.

BUS STATION – A location serving as a point of embarkation for any bus operated by a Transit Authority.

PROTECTED USE ADU - An attached or detached ADU that is located, or is proposed to be located, on a lot in a Single-Family Residential Zoning District and is protected by M.G.L. c.40A, §3, provided that only one ADU on a lot may qualify as a Protected Use ADU. An ADU that is nonconforming to the Zoning shall still qualify as a Protected Use ADU if it otherwise meets this definition.

SINGLE-FAMILY RESIDENTIAL ZONING DISTRICT – Any Zoning District where single-family residential dwellings are permitted or an allowable use, including any Zoning District where single-family residential dwellings are allowed as-of-right or by Special Permit.

hereunder.

- b. The Building Commissioner shall approve a building permit authorizing Protected Use ADU installation and use within or on a lot with a Principal Dwelling in a Single-Family Residential Zoning District, including within or on a lot with a preexisting nonconforming structure, if the dimensional standards and of-street parking standards listed herein are met.
- c. For a proposed new detached accessory dwelling unit, Site Plan Review from the Planning Board is required, except that the Planning Board may not deny an application for Site Plan Review as set forth in Section 255-149(B)(2) herein but shall approve or approve with conditions but may only deny for failure to provide the required submittal requirements.
- d. ADUs are not eligible for Short-Term Rentals, as defined by the Town of South Hadley.

2. Dimensional Standards and Code Compliance

A Protected Use ADU must meet the following standards:

- a. Shall not be larger than the Gross Floor Area of 900 square feet or ½ the Gross Floor Area of the Principal Dwelling, whichever is smaller.
- b. Shall maintain a separate entrance from the Principal Dwelling sufficient to meet safe egress under the State Building Code and Fire Code.
- c. Construction shall be in conformity with the State Building Code, and 310 CMR 15.00 The State Environmental Code, Title V regulations, where not serviced by a public sewer.
- d. On a lot with a single-family residential dwelling unit, the ADU shall not have more restrictive dimensional standards, as defined in Dimensional Regulations Schedule, than those required for a single-family residential dwelling or accessory structure within the same zoning district, whichever results in more permissive regulation.
- e. On a lot with a principal dwelling that is not a single-family residential dwelling unit, the ADU shall not have more restrictive dimensional standards than those required for a ~~single-family residential~~ dwelling or accessory structure, as defined in Dimensional Regulations Schedule, within the same zoning district, whichever results in more permissive regulation.

3. Of-Street Parking Requirements

- a. No more than one additional of-street parking space shall be required for a Protected Use ADU if the lot subject to the ADU is located outside of a 0.5-mile radius of a Transit Station, as defined in 760 CMR 71.00; or,
- b. No additional on-street or of-street parking space shall be required for an ADU if any portion of the lot subject to the Protected Use ADU is located within a 0.5-mile radius of a Transit Station, as defined in 760 CMR 71.00.

4. Per M.G.L. c.40A, to encourage the development of housing units for disabled and handicapped individuals and persons with limited mobility, the permit granting authority shall allow reasonable deviation from the stated conditions where necessary to install features and facilitate access and mobility for disabled persons.

TRANSIT STATION – A Subway Station, Commuter Rail Station, Ferry Terminal, or Bus Station.

2. Repeal and replace Section 255-50 Accessory Dwelling Units of the South Hadley Zoning Bylaw with the following:

§ 255-50 Accessory Dwelling Units.

A. Purpose.

The purpose of this Section 255-50 is to allow for Accessory Dwelling Units (ADUs), as defined under

M.G.L. c. 40A, §1A, to be built as of-right in Single-Family Residential Zoning Districts in accordance with Section 3 of the Zoning Act (M.G.L. c. 40A), as amended by Section 8 of Chapter 150 of the Acts of 2024, and the regulations under 760 CMR 71.00: Protected Use Accessory Dwelling Units. This zoning provides for by-right ADUs to accomplish the following purposes:

1. Increase housing production to address local and regional housing needs across all income levels and at all stages of life.
2. Develop small-scale infill housing that is in the context of zoning districts that allow single-family housing while providing greater density.
3. Provide a more moderately priced housing option to serve smaller households, households with lower incomes, seniors, and people with disabilities.
4. Enable property owners to age in place, downsize, or earn supplemental income from investing in their properties.

B. Definitions.

Refer to §255-10 Terms Defined, and 760 CMR 71.00. Any discrepancy between similar terms defined shall be resolved in favor of the definitions as contained in 760 CMR 71.00.

For the purposes of calculating allowable size of an accessory dwelling unit, **Gross Floor Area (GFA)** is defined as follows:

The sum of the areas of all stories of the building of compliant ceiling height pursuant to the Building code, including basements, lofts, and intermediate floored tiers, measured from the interior faces of exterior walls or from the centerline of walls separating buildings or dwelling units but excluding crawl spaces, garage parking areas, attics, enclosed porches and similar spaces.

Gross Floor Area Where there are multiple Principal Dwellings on the Lot, the GFA of the largest Principal Dwelling shall be used for determining the maximum size of a Protected ADU.

C. Regulations

For the purposes of this Section 255-50, the following regulations shall apply:

1. Procedural requirements.
 - a. Refer to Chapter 255, Attachment 1, Use Regulations Schedule, and Article XII, Site Plan Review for procedures for applications requiring Site Plan Review

5. Nonconformance

- a. A Protected Use ADU shall be permitted within, or on a lot with a preexisting nonconforming structure so long as the Protected Use ADU can be developed in conformance with the State Building Code and 760 CMR 71.00.
- b. A Protected Use ADU shall be exempt from any required finding under M.G. L. c.40A §6.

6. Administration and Enforcement

- a. It shall be the duty of the Building Commissioner to administer and enforce the provisions of this bylaw.
- b. No building shall be constructed or changed in use or configuration until the Building Commissioner has issued the appropriate building permits. No permit shall be issued until a sewage disposal works permit, when applicable, has first been obtained by the Board of Health and the proposed building and location thereof conform to the Town's bylaws. No building or ADU shall be occupied until a certificate of occupancy has been issued by the Building Commissioner, where required.
- c. The Building Commissioner may issue a cease and desist order or enforcement order on any work in progress or on the use of any premises, either of which are in violation of the provisions of this chapter.