



Comprehensive Zoning Review

Town of Goshen, Massachusetts

2024

Compiled by the **Pioneer Valley Planning Commission**
in consultation with the Goshen Planning Board and Select Board

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The Town of Goshen Planning Board.

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Executive Summary

The Town of Goshen has engaged Pioneer Valley Planning Commission (PVPC) to assess and review the Goshen Zoning Bylaw. One of the deliverables of this project is a zoning review and assessment, also known as a *zoning diagnostic*, which is what this report seeks to do.

The comprehensive zoning review considers both technical and policy issues, recognizing that the town has other documentation of proposed policy, goals, and objectives in its adopted community plans.

Several review criteria guided this work, specific to an evaluation and comment on:

- Bylaw structure and format,
- Ease of access and navigability,
- Clarity of language and presentation,
- Internal conflicts and inconsistencies,
- Obsolete or missing provisions,
- Updates to implement recently completed plans, if any,
- Provisions that need to be updated to conform with MGL Chapter 40A and judicial decisions; and
- Policy-level updates to implement recent completed plans and town initiatives

This review is based on the Town of Goshen Zoning Bylaw, last amended October 23, 2023.

Past Planning Efforts

Open Space and Recreation Plan (2021)

In 2021, the Town of Goshen updated its Open Space and Recreation Plan. This planning document catalogues the town's vast natural resources and identifies the primary goals for continued preservation of open space and recreational lands. With in the five primary goals there are four land use or zoning related actions recommended for consideration:

- Support research on the impact of a Conservation Subdivision Bylaw/Flexible Residential Development Bylaw as alternatives to ANR
- Support adoption of a Stone Wall Protection Bylaw at Annual Town Meeting
- Support efforts to develop expanded floodplain regulations as part of zoning to protect water quality, lessen erosion and pollution, and minimize detrimental effects from flooding.
- Support town efforts to develop a floodplain overlay district to include in Zoning Bylaw – *The Town adopted a Floodplain overlay district amendment at Town Meeting on Oct. 23, 2023. (§IV. D "Floodplain District")*

Hazard Mitigation Plan (Draft 2024)

Since 2009, Goshen has adopted and regularly updated a Hazard Mitigation Plan to identify threats to local resources and populations. Recommendations related to zoning or land use regulations often emerge as strategies to mitigate the impact of hazards. The regular update of the HMP was ongoing during the technical review of the Zoning Bylaw in 2024. The following are potential changes proposed in the most recently adopted Hazard Mitigation Plan from 2016:

- Adopting a Groundwater Supply Protection District to limit or restrict development in groundwater recharge areas

Village Center Plan (Draft 2019)

In 2019 the Town consulted the Conway School of Landscape Design to create a draft Master Plan for Village Center, focusing on recreational potential and pedestrian connections to existing recreational amenities. No explicit recommendations related to zoning and/or land use regulations were included in the final design.

Goshen Community Development Plan (2004)

Through collaboration with the Pioneer Valley Planning Commission (PVPC) and the Goshen Community Development Committee, the Town drafted a community development plan in 2004 to examine the Town and plan for the protection of open space and natural resources, housing production, economic development, and transportation infrastructure. The plan presented several strategies to achieve goals related to each theme, with several strategies related to multiple topics. The following are zoning related strategies presented in the Plan:

- Create a Mixed-Use Village Center
- Provide appropriate zoning regulations to allow for elder assisted living
- Create Cluster Development Subdivision
- Revise Bylaws to encourage Home-based business

State and Regional Planning and Zoning Efforts

Valley Vision

Valley Vision is the Regional Land Use Plan for the Pioneer Valley, developed by the Pioneer Valley Planning Commission and adopted by a majority of the communities in the region through a Memorandum of Agreement. The plan promotes compact, mixed-use growth in and around existing urban and town centers, as well as protection of open space and natural resources outside developed centers.

The original plan was updated in 2010 and again in 2015. Towns that signed the Memorandum of Agreement are committed to review and update local master plans, zoning and subdivision regulations to promote efficient growth consistent with the recommendations of their community-specific Smart Growth Community Checklist and Valley Vision Update maps. A copy of Goshen's Smart Growth Checklist and sample bylaws noted on the Checklist are included in *Appendix B*.

State Zoning Law – Chapter 40A

The following language was extracted from Chapter 40A of Massachusetts General Law, “the Zoning Act,” for consideration in the review of the Goshen Zoning Bylaws. According to the Zoning Act, Towns **may not regulate** the following uses:

- the use of materials, or methods of construction of structures regulated by the state building code,

- the use of land for the primary purpose of commercial agriculture, aquaculture, silviculture, horticulture, floriculture or viticulture,
- the use, expansion, reconstruction or construction of structures thereon for the primary purpose of commercial agriculture, aquaculture, silviculture, horticulture, floriculture or viticulture, including those facilities for the sale of produce, wine and dairy products, provided that either during the months of **June, July, August and September** of each year **or during the harvest season of the primary crop** raised on land of the owner or lessee,
- No zoning ordinance or by-law **shall exempt** land or structures from **flood plain or wetlands** regulations established pursuant to the General Laws.
- No zoning ordinance or bylaw in any city or town shall prohibit, or require a special permit for, the use of land or structures, or the expansion of existing structures, for the primary, accessory or incidental purpose of operating a **child care facility**; As used in this paragraph, the term "child care facility" shall mean a **child care center or a school-aged child care program**, as defined in section 1A of chapter 15D.
- Notwithstanding any general or special law to the contrary, local land use and health and safety laws, regulations, practices, ordinances, by-laws and decisions of a city or town **shall not discriminate against a disabled person.**
- **Family child care home** and **large family child care home**, as defined in section 1A of chapter 15D, shall be **an allowable use** unless a city or town prohibits or specifically regulates such use in its zoning ordinances or by-laws.
- No zoning ordinance or by-law shall prohibit the owner and occupier of a residence which has been destroyed by fire or other natural holocaust from placing a **manufactured home** on the site of such residence and residing in such home for a period **not to exceed twelve months** while the residence is being rebuilt. Any such manufactured home shall be subject to the provisions of the state sanitary code.
- No dimensional lot requirement of a zoning ordinance or by-law, including but not limited to, set back, front yard, side yard, rear yard and open space shall apply to **handicapped access ramps** on private property used solely for the purpose of facilitating ingress or egress of a physically handicapped person, as defined in section thirteen A of chapter twenty-two.
- No zoning ordinance or by-law shall prohibit or unreasonably regulate the installation of **solar energy systems** or the building of structures that facilitate the collection of solar energy, except where necessary to protect the public health, safety or welfare.
- No zoning ordinance or by-law shall prohibit the construction or use of an **antenna structure** by a federally licensed amateur radio operator.

For the purposes of this section, the term "agriculture" shall be as defined in section 1A of chapter 128, and the term horticulture shall include the growing and keeping of nursery stock and the sale thereof;

- provided, however, that the terms agriculture, aquaculture, floriculture and horticulture **shall not include** the growing, cultivation, distribution or dispensation of marijuana as defined in section 2 of chapter 369 of the acts of 2012, marihuana as defined in section 1 of chapter 94C or marijuana or marihuana as defined in section 1 of chapter 94G.
- Said nursery stock shall be considered to be produced by the owner or lessee of the land if it is nourished, maintained and managed while on the premises.

In general, Section 3 of Chapter 40A of the General Laws lists that towns may not “prohibit, unreasonably regulate, or require a special permit for the use of land for the primary purpose of commercial agriculture, aquaculture, silviculture, horticulture, floriculture or viticulture, nor prohibit, unreasonably regulate or require a special permit for the use, expansion, reconstruction or construction of structures thereon for the primary purpose of commercial agriculture, aquaculture, silviculture, horticulture, floriculture or viticulture.”

Zoning Review Meetings

PVPC recommends that the Planning Board and Zoning Board of Appeals continue to meet to discuss the recommended changes included in the re-ordered, Draft Zoning Bylaw Revisions and to the model bylaws included with this report. In addition, a Public Meeting is recommended prior to the Public Hearings that are required to be held by the Planning Board and Select Board for the adoption of revisions to the Zoning Bylaw in order to educate the public about the proposed revisions.

Technical Review

Structure and Format

Reorganizing and updating a town's Zoning Bylaw (ZBL) should end with a revision that is easier to understand, communicate to interested parties, and amend, as necessary, over time. The Goshen ZBL consists of 17 main Sections and multiple subsections with amendments presented with a partial history of amendments overtime.

Section I.	Purposes
Section II.	Existing Lots, Structures and Uses
Section III.	Establishment of Districts
Section IV.	Use Regulations
Section V.	Building Lot Requirements
Section VI.	Building Provisions
Section VII.	Location and Area Regulations
Section VIII.	Unregistered Motor Vehicles
Section IX.	Parking Requirements
Section X.	Continuance of Non-conforming Uses After Loss or Destruction
Section XI.	Fire Damage
Section XII.	Abandoned Wells
Section XIII.	Swimming Pools
Section XIV.	Depositing of Snow on Roads
Section XV.	Driveways
Section XVI.	General Regulations and Administration
Section XVII.	Definitions

While this structure groups some related topics together, it lacks a clear, logical flow and separation of key elements typically found in modern zoning bylaws. Provisions related to administration and procedures, general standards, special regulations, and definitions are scattered throughout the document rather than consolidated into their own articles. There is one section, §IV.D, listed twice for the "Floodplain District" regulations and the "Medical/Adult Marijuana" regulations.

Additionally, two significant sections of the bylaw, "Large-scale Ground-Mounted Solar Photovoltaic Installations", Section IV.B.4.c, and "Medical/Adult Use Marijuana", Section IV.D(2), are included as appendices at the end of the Zoning Bylaw. The text of these sections is best served by appropriately inserting at the respective locations, which may need amending.

Finally, the inclusion of Subdivision Rules and Regulations within the Zoning Bylaw is uncommon and discouraged. It's recommended that the Subdivision Rules and Regulations be removed in entirety from the

Zoning Bylaw and adopted by the Planning Board through a public hearing process. A detailed review of this section of the Zoning Bylaw was not conducted within the parameters of this technical review.

There are minor adjustments that can be made to improve the organization of the ZBL. Ideally, administrative procedures should be grouped together in one clearly labeled section of the ZBL. This includes procedures for building permits, zoning enforcement, appeals, special permits, variances, site plan approval, and site plan review. Currently, administrative and enforcement procedures related to certain uses, such as for example Large-Scale Ground-mounted Solar Photovoltaic Installations, can be found in different sections of the bylaw.

Where a definitions section could be placed is a common issue in zoning review and revision. Some communities put all definitions in a section so named, either near the beginning or at the end of the bylaw; other communities put “umbrella” definitions in one section and define unique terms in the section in which they appear. Today, professional zoning practice favors the use of a single section for all definitions, and we recommend that approach as well. Goshen’s Zoning Bylaw has many of the existing definitions in the Definitions section (Section XVI); however, there are some definitions particular to special use regulations and performance standards placed within the Floodplain Overlay District, Large-Scale Ground-mounted Solar Photovoltaic Installations, and Medical/Adult Use Marijuana sections of the bylaw.

Access and Ease of Use

The Town of Goshen Zoning Bylaws are accessible to the public online through the Town website. A link to a pdf version of the document, dated 10/23/2023, can be found at the bottom of the Planning Board webpage: <https://storage.googleapis.com/proudcity/goshenma/2018/09/Zoning-By-Laws-revised-2023-10-23.pdf>

In reviewing the Goshen Zoning Bylaws, several opportunities were identified to improve the accessibility and ease of use of the document. These include:

Table of Contents and Numbering System

An essential element of standard bylaws is the Table of Contents, which is missing from the Town of Goshen Zoning Bylaw. A Table of Contents is typically found at the beginning of the bylaw document to provide a quick outline of the contents of the document and the associated page number for each section. Without this invaluable element, readers of the bylaw have no quick guide or reference to find desired information. The Bylaw is also missing a consistent numbering system of sections and subsections. For example, Section IV.D “Floodplain District” reverts to “Articles” with roman numerals and Sections with capitalized letters. Additionally, standard bylaws have either a page header or footer to communicate what section and subsection of the document is presented on any given page. Having this element included on a bylaw page aids the audience when sections of the bylaw span several pages.

Tables, Graphics, and Illustrations

The bylaw currently conveys all standards in narrative text form, which can be difficult to read and interpret quickly. Selective use of tables, graphics and illustrations can make requirements much easier to understand and apply. Recommendations include:

- Use tables to present information like allowed uses, dimensional requirements, required parking ratios, and permitting thresholds.
- Develop flowcharts to illustrate permitting processes and highlight key decision points.

- Create graphics to explain concepts like how building height and setbacks are measured or what a vegetated buffer might look like.
- Provide illustrative examples of calculations like lot coverage or sign area.

Cross-References and Hyperlinks

With the interspersed structure of the current bylaw, many provisions refer to requirements or procedures located elsewhere in the document. This can make it difficult for readers to find all relevant information on a given topic.

- Wherever a provision references another section, provide a direct cross-reference with the article/section number.
- For digital versions, hyperlink cross-references to enable easy navigation.
- Consider a "references" line at the end of each section listing other relevant sections.
- Provide external links to referenced documents (e.g. maps, application forms, etc.).

Making the zoning bylaw more accessible and user-friendly is an ongoing process that requires conscious effort and periodic review. However, these investments can pay major dividends in terms of more efficient permitting, greater public understanding and support, and reduced legal risk.

Clarity and Consistency

The current Goshen Zoning Bylaws have several provisions that lack clarity or are inconsistent, which can lead to confusion in interpretation and application. Key issues include:

Vague or undefined terms

Some terms used in the bylaw are vague or not defined, leading to ambiguity. For example:

- Section IV.A.4.b allows "renting of rooms" but does not define what constitutes a "room" (e.g. presence of bathroom or kitchen).
- Section IV.B.3 allows "institutions" by special permit in a general sense but does not define the term beyond "hospital", "nursing home", and "educational".
- Section V refers to "permanent dwellings" and "principal buildings" without defining these terms or how they differ from other types of structures.
- Section IV.D.V defines "district" to mean "floodplain district" but does not clarify that this is effectively an overlay district, which is not defined in the Bylaw.
- Section IX "Parking Requirements" requires that a "suitable" amount of space be provide to meet the needs of all persons using land or buildings without defining explicitly what determines a "suitable" amount.

Conflicting or inconsistent provisions

Some bylaw provisions appear to conflict with each other or with state law, creating uncertainty in application. For example:

- Section IV.B.4 requires a special permit for most commercial uses, but Section IV.A.4 seems to allow certain home occupations by right. The interaction between these provisions is unclear.

Lack of cross-references

The bylaw often mentions permit requirements or standards without providing a cross-reference to the relevant section, making it hard to find all applicable provisions. For example:

- Section XVI.B authorizes the Inspector of Buildings to enforce the bylaw, but the powers and procedures for enforcement are not spelled out there or cross-referenced.

Incomplete or circular provisions

Some bylaw sections are incomplete, circular or lack specificity, making it difficult to understand how they apply. For example:

- Section V requires a special permit for accessory structures "if not allowed as unregulated under Section IV.A", but Section IV.A does not appear to address accessory structures.
- Section X allows nonconforming structures to be rebuilt after damage by special permit if they meet the criteria for a special permit, but those criteria are not specified there or cross-referenced.
- Section XV.5 authorizes the Highway Superintendent to waive driveway standards based on "unusual circumstances" without defining or giving examples of such circumstances.

Inconsistent terminology

The bylaw sometimes uses different terms for the same concept or activity, which can create confusion. For example:

- Sections IV and XVII refer variously to "accessory uses", "accessory structures", "accessory buildings" without clearly defining the difference between them.
- Some sections refer to the "Zoning Bylaw(s)" while others use "By-Law".

Specific Suggestions regarding Clarity and Consistency

- Review all terms used in the bylaw and either provide a definition in Section XVII or clarify the intended meaning in the use/dimensional tables. Ensure terms are used consistently throughout the document.
- Comprehensively review the bylaw for conflicting or inconsistent provisions, especially regarding use allowances. Ensure alignment between the use table and any generally applicable restrictions. Revise or remove sections that conflict with state law.
- Whenever a provision references permit requirements or other bylaw standards, provide the specific section number where those provisions can be found. Use consistent section numbering throughout.
- Review all provisions to ensure they are complete, specific and avoid circular logic. If referencing permit criteria or exceptions, specify what those are or cross-reference the relevant section(s).
- Use consistent terminology throughout the bylaw for the same concepts and explicitly define any different terms in the definitions section. Clarify which town officials are responsible for administering different provisions.

In addition to addressing these specific clarity and consistency issues, we recommend the following general approaches:

- Use a consistent format for each section, with clear headings and subheadings.
- Provide a purpose statement for each district or regulation to clarify the intent.
- Use tables and illustrations to convey information more clearly wherever possible.
- Proofread the full bylaw to ensure grammatical consistency and avoid typos.
- Have the revised bylaw reviewed by town counsel for consistency with state and federal law.

Districts

The current Goshen Zoning Bylaws establish a single base zoning district, the Residential-Agricultural District, and one overlay district, the Floodplain District. While this simple structure may reflect the town's rural character, it provides limited options to guide development to appropriate areas and protect sensitive resources. The bylaw could be improved by providing a clearer purpose and standards for each district and considering additional districts or sub-districts.

Specific Suggestions regarding Zoning Districts

- Provide a purpose statement for the districts that clarifies the intent and desired character. For example:

"The purpose of the Residential-Agricultural District is to protect Goshen's rural atmosphere and provide for low-density residential development while promoting the continuation of agricultural and forestry activities. The district allows for single-family homes and farming uses, with limited commercial activity by special permit to serve local needs."
- Consider establishing sub-districts within the Residential-Agricultural district to better guide growth, such as:
 1. Village Center Sub-district: Allows for smaller lots and a mix of residential and commercial uses to promote a compact, walkable town center.
 2. Rural Residential Sub-district: Allows for low-density single-family homes on larger lots, with incentives for cluster development to protect open space.
 3. Agricultural Preservation Sub-district: Limits non-agricultural uses and provides incentives for farming and conservation.
- Ensure that the use and dimensional standards for each district align with its stated purpose. For example, the bylaw could:
 1. Allow a wider range of housing types (e.g. duplexes, townhouses) by right or special permit in a Village Center sub-district.
 2. Require special permits for intensive farming operations and large-scale solar in an Agricultural Preservation sub-district.
 3. Provide more flexible dimensional standards (e.g. reduced setbacks) for cluster development in a Rural Residential sub-district.
- Consider additional overlay districts to protect other significant resources, such as:
 1. Scenic Roads/Ridgeline Protection: Requires design review for development visible from designated scenic roads or ridgelines.
 2. Historic Preservation: Provides for review of changes to historic structures and incentives for preservation.
 3. Water Resource Protection: Limits impervious surfaces and requires stormwater management in sensitive watershed areas.
- Ensure that all districts are clearly shown on the official Zoning Map and that the map is regularly updated as boundaries change.

In addition to these specific suggestions, the following principles should guide any changes to the district structure:

- Align district purposes and standards with the Town's Master Plan and other adopted land use goals.
- Ensure that districts and allowed uses comply with state and federal law, including the fair housing act, telecommunications act, and agricultural/recreational marijuana statutes.
- Use clear, measurable standards wherever possible to ensure consistent administration and avoid constitutional issues of vagueness.
- Make district boundaries logically consistent with parcel lines and geographic features to avoid split lots and minimize nonconformities.
- Consider form-based approaches that focus on the physical character of development rather than just the use.
- Provide incentives (e.g. density bonuses) to encourage preferred development types like affordable housing or open space preservation.

A well-crafted district structure is the foundation of an effective zoning bylaw. While amending districts can be politically challenging, a balanced approach that provides for both preservation and growth can help achieve Goshen's land use goals.

Administration – Procedures

The Town of Goshen Zoning Bylaws include various administrative procedures that are dispersed throughout the ZBL and could be updated to improve clarity, consistency, and enforceability:

- Section XVI “General Regulations and Administration” pertains primarily to the Board of Appeals, but not the Planning Board. The inclusion of a subsection detailing the requirements and powers of the Planning Board, such as the ability to adopt rules and regulations for the administration of their duties, would clarify the roles of both bodies in the permitting process.
- Special Permit procedures are generally outlined in Section XVI.C in regard to uses listed in Sections IV.B and IV.C; however, special permits granted by the Planning Board are found in subsections, such as the Large-Scale Ground-Mount Solar Photovoltaic Installations appendix and the Medical/Adult-use Marijuana appendix. Consolidating the general procedure for special permits into a singular section, with cross-references to specific subsections, would provide a more accessible process for applicants.

Incomplete or Outdated Provisions

In reviewing the Goshen Zoning Bylaws, several provisions were identified as incomplete, inconsistent with current best practices or legal standards, or potentially outdated. Addressing these issues can help improve the clarity, consistency and defensibility of the bylaw.

Special Permit Procedures and Criteria

Section IV.B lists many uses requiring a special permit, but the procedures and criteria for granting special permits are not fully spelled out. Section XVI.C provides only very general guidance related to Special Permits granted by the Zoning Board of Appeals. Special Permits granted by the Planning Board, for uses such as Medical/Adult-use Marijuana and Large-Scale Ground-Mounted Solar Photovoltaic Installations, are described in their respective bylaws which are both included as appendices to the ZBL. Updating the ZBL’s Special Permit Procedures and Criteria would likely require the establishment of a dedicated section detailing the special permit procedures for all uses, including:

- Application contents and fees
- Reviewing body (Planning Board or ZBA) based on use type

- Public notice and hearing requirements per state law
- Statutory findings required for approval per MGL c.40A s.9
- Conditions, duration, lapse and extension provisions
- Appeal procedures

Table of Uses

The bylaw does not currently include a Table of Uses summarizing allowed uses by district. Section XVII defines some broad use categories, but the list appears incomplete. Several use terms are not defined within the ZBL. Updating the ZBL will require the creation of a comprehensive Table of Uses that:

- Lists all allowed primary and accessory uses, including any not currently specified
- Shows uses allowed by-right, by site plan approval, and by special permit in each district
- Provides cross-references to any use-specific standards
- Includes footnotes for exceptions or special requirements
- Eliminates or defines any vague terms

Mobile Homes and Recreational Vehicles

Section VI requires all structures to comply with the building code, which could preclude mobile homes or manufactured homes. The state Zoning Act (MGL c.40A s.3) requires allowing temporary mobile homes after a disaster. The bylaw is also silent on storage or occupancy of recreational vehicles. Updating the ZBL to address Mobile and/or Manufactured Homes and Recreational Vehicles will require the addition of provisions that:

- Allow mobile homes that meet federal HUD standards by-right in all districts where single-family homes are allowed
- Allow temporary mobile homes for up to 12 months after a natural disaster
- Specify where and how long recreational vehicles may be stored or occupied

Variance Procedures and Criteria

The bylaw mentions variances in Section X for rebuilding nonconformities and outlines the variance process generally in Section XVI.C. While the request for variances are uncommon, the procedures and criteria for a potential variance could be clarified with the addition of a comprehensive section detailing the variance procedures, including:

- Application contents and fees
- Public notice and hearing requirements per state law
- Statutory findings required for approval per MGL c.40A s.10
- Conditions, duration, lapse and extension provisions
- Appeal procedures
- Requirement to record variances with the Registry of Deeds

Accessory Uses and Structures

Accessory uses and structures are mentioned sporadically but not comprehensively addressed within the bylaw. There are no general standards for size, placement or allowed uses. To more completely address the various potential accessory uses and structures, a section with standards for accessory uses/structures could be created, which would include:

- A list of allowed accessory uses/structures (e.g. garages, sheds, ADUs, home occupations, etc.)
- Allowances for certain accessory uses/structures by-right vs. special permit
- Maximum size, height and lot coverage relative to principal structures
- Required setbacks from property lines and other structures
- Use-specific standards for certain accessory uses (e.g. home occupations)

Nonconforming Uses and Structures

Section X addresses nonconformities in the case of damage, but the bylaw lacks a comprehensive section on nonconformities as required by state case law. The bylaw can be brought up to date by establishing a dedicated section on nonconformities that:

- Defines the different types of nonconformities (use, structure, lot, etc.)
- Specifies the allowed continuation, alteration and expansion of each type
- Sets standards for changes in nonconforming uses or rebuilding after damage/destruction
- Addresses nonconforming lots, including when adjacent lots must be combined
- Allows Special Permits to alter nonconforming structures if criteria are met
- Provides for voluntary discontinuance or abandonment of nonconforming uses

Solar Energy Systems

The bylaw currently addresses “large-scale, ground-mounted solar photovoltaic installations” (LSGMSPI) solely. Per MGL c.40A s.3, zoning cannot prohibit solar energy systems or unreasonably regulate them unless necessary for public health, safety or welfare. As the original LSGMSPI bylaw was adopted in 2014 and has not been amended to-date, recent developments in solar photovoltaic technology and standards are not considered in the existing bylaw. Additionally, the restriction of as-of-right siting of LSGMSPIs to a single “designated location” may violate the uniformity clause of Chapter 40A due to the Town having a single zoning district.

It is suggested that solar energy provisions be revised and updated to conform with recent amendments to Chapter 40A as related to the siting of solar energy systems and new state regulations pertaining to the siting of renewable energy facilities in order to:

- Define different scales and configurations of solar energy systems
- Exempt roof-mounted solar from dimensional requirements
- Allow building and ground-mounted systems by-right with reasonable standards
- Require special permits for large-scale ground-mounted systems with siting criteria
- Establish reasonable design, landscaping and decommissioning standards

Signs

The bylaw currently has a limited provision mentioning them as a possible use requiring a special permit in Section IV.C. A lack of clear sign standards can lead to legal challenges based on content discrimination. The ZBL can be updated by adding a comprehensive sign section that:

- Defines different types and configurations of signs
- Sets standards for number, size, height, lighting and placement of signs by district
- Allows certain temporary and permanent signs by-right
- Requires special permits for larger or illuminated signs with review criteria
- Provides a content-neutral definition of "sign" and avoids regulating based on message

General Suggestions

In addition to these specific issues, Goshen should consider the following in reviewing the bylaw for outdated or incomplete provisions:

- Compare use and dimensional requirements with what exists on the ground to identify potential mismatches and pre-existing nonconformities
- Review definitions for consistency with state law and court rulings on vagueness
- Review parking, landscaping and lighting provisions for consistency with current industry standards
- Ensure that grandfathering provisions are consistent with MGL c.40A s.6
- Consider removing or updating any outdated or unenforceable provisions (e.g. vague performance standards, overly restrictive uses, etc.)

Regularly monitoring the zoning bylaw for incomplete, outdated or legally questionable provisions is an important part of keeping it current and defensible. Even small inconsistencies or gaps can lead to confusion or legal challenges that undermine the bylaw's effectiveness.

Missing Topics

The bylaw does not appear to address several topics that may be relevant to the town:

Inclusionary Zoning

Inclusionary zoning is a common tool in Massachusetts to increase the affordable housing inventory and provide a broader range of housing options for all residents in a community. Inclusionary zoning requires that private developers make a fixed percentage of their housing affordable to low- or moderate-income households. Key provisions include the threshold for triggering affordability (e.g. 10+ units), target income levels (e.g. 80% AMI), and percent set-aside (e.g. 15% of units). Many bylaws contain “cost offsets” in the form of density bonuses, expedited permitting processes, or fee waivers, to name a few options, that help developers meet the cost of producing affordable homes. Over 100 Massachusetts communities have adopted inclusionary zoning regulations.

Accessory Dwelling Units (ADUs)

Massachusetts’ “Affordable Homes Act” of 2024 amended the Zoning Act, G.L. c 40A in significant ways, particularly in defining Accessory Dwelling Units (ADUs) “as of right” uses in single-family residential zoning districts. The new state regulations go into effect on February 2, 2025, meaning that all property-owners in Goshen are now legally permitted to seek the appropriate building permits for the construction of ADUs. With the sole residential zoning district in Goshen, this topic may become more common among property owners wishing to construct an ADU for the sake of down-sizing or generating income from renting the ADU.

Short-term residential rentals (e.g., Airbnb)

Many Massachusetts towns find their existing zoning inadequate for addressing the short-term home/room rental services such as Airbnb or VRBO. Traditional terms such as “bed and breakfast” or “lodging house” do not work well for Airbnb activity. The town may want to explore short-term rentals regulations, in

consultation with Town Counsel, especially as the Town has the right to regulate the short-term rental of accessory dwelling units which may become more common given the amendments to c. 40A.

Village Center Zoning

“Village Center” zoning—often but not exclusively created in the form of overlay districts—is intended to create and/or maintain a walkable, denser, and typically mixed-use town or village center area in the common traditional of Massachusetts town planning. Typical elements are mixed use allowances, reduced front setbacks, parking placed behind buildings, and façade design standards.

When paired with other regulatory tools, like Open Space Residential Development (OSRD), Village Center zoning can help communities to concentrate development in specific areas while ensuring that open space is preserved. Massachusetts encourages this type of zoning through the Smart Growth Zoning Overlay District Act (Chapter 40R), which provides financial incentives to communities that create dense residential or mixed-use smart growth zoning districts which include affordable housing requirements. While many Massachusetts communities have been approved for 40R eligibility, communities may pursue Village Center zoning without applying for 40R consideration.

Open Space Residential Development (OSRD)

OSRD bylaws allow for more compact development patterns that preserve significant open space and natural resources. A comprehensive OSRD bylaw that allows this type of development by-right in the Residential-Agricultural district (or sub-districts) would include:

- Allowing smaller lot sizes in exchange for 50%+ open space set-aside
- Providing a density bonus for projects with more than the minimum open space
- Requiring a conservation analysis to identify primary and secondary conservation areas
- Specifying allowed uses and ownership arrangements for open space areas
- Incorporating LID stormwater management and landscaping standards
- Providing design guidelines for site layout, architecture, and landscaping

Battery Energy Storage Systems

Under the state Zoning Act, MGL 40A Section 3, municipalities may not unreasonably regulate “...the building of structures that facilitate the collection of solar energy.” Currently, the Goshen ZBL makes no reference to allowances for Battery Energy Storage Systems (BESS). The Town should include this use in its Schedule of Use Regulations and create a section of the bylaw dedicated to provisions for BESS allowances which are congruent with state law.

Renewable Energy

The current bylaw does not address small-scale solar, wind, or other renewable energy facilities. With increasing demand for clean energy, it's important to have clear standards for their siting and design. Renewable energy provisions that address both accessory-scale and standalone facilities could include:

- Defining different scales of ground-mounted and roof-mounted solar (e.g. <250 kW vs. 250kW+)
- Allowing accessory solar and wind by-right in all districts, subject to reasonable dimensional and design standards
- Requiring special permits for large-scale solar and wind facilities, with criteria for siting, screening, decommissioning, etc.

- Considering overlay districts for preferred locations of large-scale facilities
- Addressing battery storage and grid connections in site plan standards

Agriculture and Farmland Protection

While the bylaw mentions agriculture as an allowed use in Section IV, it does not have detailed provisions to support farming and protect farmland from development pressure. Incorporating agricultural preservation provisions would include:

- Allowing a wide range of agricultural and accessory uses by-right in most districts
- Providing exemptions or reduced regulation for agricultural structures and uses per state law
- Requiring special permits for residential subdivisions on prime farmland soils
- Providing density bonuses for clustered development that preserves farmland
- Adopting a right-to-farm bylaw and establishing an Agricultural Commission
- Considering a Farmland Protection overlay district with additional use restrictions and incentives

A Review of Exclusionary Zoning Language

Exclusionary zoning refers to provisions that have the effect of preventing certain types of housing or households from locating in a community. While not always intentional, such provisions can limit housing options for lower-income, younger, older, and non-traditional households and perpetuate segregated land use patterns.

In reviewing Goshen's zoning bylaw through this lens, a few provisions raised potential concerns:

Single-family district

The bylaw establishes just one base zoning district (Residential-Agricultural) that appears to allow only single-family homes by right (Section IV.A.4.a). While two-family homes, accessory apartments, and multi-family housing are mentioned in Sections IV.A.4.b and IV.B.1.a, it's unclear if these are allowed and under what circumstances. This potentially exclusionary language can be addressed by expressly allowing a wider range of housing types (e.g. duplexes, townhouses, apartments) by right in appropriate areas and provide flexible dimensional standards to accommodate them. Consider promoting housing diversity in a Village Center district or sub-areas of the RA district.

Large lot size

Section V requires a minimum lot size of 2 acres (87,120 sq ft) for all permanent dwellings. While this may be appropriate in rural areas, it can drive up housing costs and limit options near the town center and existing infrastructure. To address the exclusionary nature of large lot sizes, the Town could consider reducing minimum lot sizes in a Village district and providing a sliding scale based on housing type (e.g. 1/2 acre for single-family, 1/4 acre for a duplex, etc.). Alternatives like density-based zoning can also provide flexibility.

Lack of provisions for affordable housing

The bylaw has no specific provisions to promote development of deed-restricted affordable housing, such as inclusionary zoning, density bonuses, or allowances for non-profit housing. It also does not provide exceptions to dimensional standards for subsidized projects under the state Comprehensive Permit Law (Chapter 40B). The affordability, or lack-there-of, of the Town's housing stock can be mitigated through the

adoption of inclusionary zoning provisions that require a percentage of units in larger developments to be affordable (e.g. 15% for projects over 8 units). Provide density bonuses and other incentives to offset the cost of providing affordable units, and expressly exempt subsidized projects from certain requirements per the state Comprehensive Permit Law.

Potential barriers for group homes

While family is broadly defined in Section XVII to include groups of up to four unrelated people, the bylaw does not expressly allow for larger group homes protected under the federal Fair Housing Act. Requiring a special permit for such uses could invite legal challenges. To best avoid such potential barriers, add a ZBL provision stating that all protected group homes (for disabled adults, seniors, etc.) are allowed by right in the same manner as single-family homes. Do not require a special permit or spacing requirements for such uses.

Restrictions on mobile homes

Section VI requires all dwellings to comply with the state building code, which could effectively prohibit mobile, manufactured, and/or modular homes. These can be an affordable option, especially for seniors. The ZBL could be amended to expressly allow mobile and/or manufactured homes that meet federal HUD standards on individual lots and in existing or new mobile home parks. Provide reasonable design guidelines to ensure compatibility.

General Suggestions

To further identify and address potentially exclusionary provisions, Goshen should:

- Review all use and dimensional standards against fair housing laws and court precedents on exclusionary zoning.
- Make permitting requirements for protected housing clear and predictable to avoid "unwritten" policies that could have exclusionary effects.
- Eliminate any provisions that treat housing differently based on the type of occupants (e.g. age, disability, etc.).
- Monitor housing production and demographic data to ensure zoning is not creating disparate impacts.
- Affirmatively promote a range of affordable housing options through partnerships, incentives and education.

Ensuring that zoning allows for a diversity of housing types to meet the needs of residents at all life stages and income levels is critical for an equitable and inclusive community.

Recommendations

Based on the technical review of the Town of Goshen's Zoning Bylaws and review of past planning efforts, the following recommendations are presented as suggestions for the Planning Boards consideration. Recommendations are presented in order of priority with actions deemed most immediate and impactful in the revision of the Zoning Bylaw listed as "Short-term Priorities" and actions for the Planning Board's consideration and requiring longer-term discussion as "Longer-term Suggestions". Short-term priorities primarily pertain to revisions to the ZBL for the sake of modernizing and creating a more effective, user-friendly regulatory document, with some existing sections of the zoning bylaw identified as needing amending due to recent developments in state regulations. Longer-term Suggestions are presented as considerations that the Planning Board can begin discussing and soliciting public comment on additional topics to be added to the ZBL in future years.

Short-term Priorities

- 1. Execute Implementation Program for the consideration of Recommendations:** Implementing these recommendations will require a comprehensive re-writing of Goshen's zoning bylaw. While this may seem daunting, it is an opportunity to create a more modern, effective, and user-friendly regulatory framework that will serve the town for years to come. Key steps in this process include:
 - Establish a working group or committee to guide the rewrite process, including representatives from various Town boards (Select Board, Planning Board, ZBA) and committees (Conservation)
 - Conduct public visioning sessions and surveys to identify land use goals and concerns
 - Draft a scope of work and timeline for the rewrite, including key milestones
 - Review and revise the full text of the bylaw, supplementing as needed with graphics and illustrations
 - Vet the proposed revisions with town counsel, staff, and boards to ensure legal and administrative feasibility
 - Hold public hearings and information sessions to explain the proposed changes and solicit feedback
 - Refine the draft bylaw based on input and finalize for Town Meeting
 - Develop educational materials and conduct training on the new bylaw for staff, boards and applicants
 - Monitor the effectiveness of the new bylaw and make amendments as needed to address issues or changing conditions.

- 2. Remove the Subdivision Rules and Regulations from the ZBL:** As noted earlier, it is highly discouraged to include Subdivision Rules and Regulations as part of the Zoning Bylaws. Placing such regulations within the ZBL means that any updates are required to go before the Town as a warrant at a Town Meeting. By removing the Subdivision Rules and Regulations from the ZBL, the Planning Board retains the authority to make necessary and needed changes through a standard public hearing process, which grants the board greater flexibility in addressing issues that may arise or improving standards that are proved inadequate over time. The removal of the Subdivision Rules and Regulations will require a vote at a Town Meeting. Once the Subdivision Rules and Regulations are removed from the ZBL, the Planning Board can take on the work of updating and modernizing the regulations through the standard public hearing process, which is strongly suggested given that the regulations were last amended in 2007.

3. **Include a Table of Uses:** A zoning bylaw's Table of Uses typically serves a fundamental purpose in identifying not only the allowable land uses within the town's boundaries, but also which zoning district(s) those uses are allowed within and any additional regulations specific to the permitting of that use. The number of uses included within the Table of Uses are often intended to be exhaustive, with the understanding that in cases where the proposed use is not provided, the most similar use included in the table (as determined by the Planning Board, Town Planner, or similarly appropriate body) will be used instead.
4. **Incorporate Diagrams, Tables, Cross-references, and Other Aids:** The Zoning Bylaw could be made significantly more user-friendly through implementation of visual aids to assist with explanations for more complex processes. Administrative procedures can be more readily understood by users through incorporation of design standards and application processes, and visions for development in different districts can be presented more clearly through images. Embedded links and cross-references can make it easier to navigate different sections of the bylaw which relate to each other. These types of design improvements can significantly enhance the usability of a zoning bylaw, which can in turn make it easier both to develop in town, and to review development proposals.
5. **Reorganize and reformat the Zoning Bylaw:** Reorganizing the document to incorporate recent zoning changes, along with a reformatting/recodification, consistency in styles and fonts, and numbering system for easier referencing would modernize the ZBL and create a more accessible document for both the public and Town officials. This process could be accomplished as a standalone recodification project or as part of a more substantive update that would include various amendments and additions. Starting with a reorganization of the existing ZBL language would provide a scaffolding for future amendments and updates, and a proposed reorganization outline is provided. **This can be found in Appendix A - Reorganization of the ZBL**
6. **Revise the existing Solar Installation Bylaw:** The Town's existing bylaws pertaining to solar installations, Section IV.B.4.c and appendix IV.B.4.c were adopted in 2014. Since that time the Commonwealth has enacted several statutes related to solar installations and amended Chapter 40A to more broadly allow for the siting of such renewable energy facilities. Additionally, the state is creating a streamlined permitting process for renewable energy facilities of certain capacities, which would potentially conflict with the existing Large-scale Ground-mounted Solar Photovoltaic Installations bylaw. The Town may benefit from revising the existing solar installation regulations to better align with advancements in the solar energy industry and state permitting guidelines. PVPC collaborated with member communities in 2020 to create the "[Solar Best Practices Guide](#)", which includes example bylaws from across the Pioneer Valley and offers additional insights and considerations the Town may find helpful in accomplishing this task. Additionally, aligning the Town's solar bylaw with the upcoming permitting reforms recommended by the [Commission on Energy Infrastructure Siting and Permitting](#) will be a significant consideration for the Town as the Commonwealth introduces new permitting processes for large scale renewable energy facilities.

7. **Consider adopting a Battery Energy Storage Systems (BESS) Bylaw:** Goshen should consider including bylaw language related to battery energy storage systems, technologies used for the storage of energy generated by renewables. The Town of Blandford has included a bylaw to this effect, which can be found in the [town's zoning bylaw](#) under Section XVI – Battery Energy Storage Systems, page 64.
8. **Adopt Accessory Dwelling Units(ADUs) Bylaw:** Goshen should consider adopting an Accessory Dwelling Unit bylaw to address considerations following amendments to the Zoning Act, c. 40A, through the adoption of the Acts of 2024, which allows Accessory Dwelling Units less than 900 square feet to be built by-right in single-family zoning districts. The new state law regarding ADUs goes into effect on February 2, 2025, and the Executive Office of Housing and Livable Communities is preparing draft regulations and guidelines before the effective date. The state has a dedicated [Mass.gov webpage for ADUs](#) that is currently the best resource to assist the Town in preparing zoning regulations that best suit Goshen and addresses various considerations with the new law.
9. **Consider adopting a Short-term Rental Bylaw:** Goshen should consider including regulations on the use of short-term rentals in town through amending the ZBL. Considerations related to short-term rentals and total number of available units, parking and density, permitted locations in town, and especially the conversion of ADUs for short-term rentals are worth of discussion and inclusion through a zoning bylaw amendment. Depending on the constraints on short-term rentals the Town determines is most appropriate will instruct what regulations are appropriate. **See Appendix B – Model General Bylaw for Short Term Rentals**

Longer-term Suggestions

10. **Review the Smart Growth Community Checklist for Potential Future Implementation:** PVPC's Valley Vision plan lays out a detailed strategy to promote compact, mixed-use growth in and around town centers while protecting open space and natural resources outside the developed center. Incorporating smart growth strategies into zoning bylaws can have a multitude of positive effects to economic vitality, walkability, and conservation efforts, to name just a few. As part of the Valley Vision process, PVPC prepared a Smart Growth Community Checklist for Goshen which provides a list of strategies to implement smart growth concepts into the town's development plan. **See Appendix C – Smart Growth Community Checklist.**
11. **Consider a Mixed-Use Village District:** Goshen may wish to consider establishing a Mixed-Use Village Center District to encourage the development of a more walkable downtown with a mixture of housing and economic development opportunities. Establishing the conditions for a relatively dense downtown could simultaneously invigorate the Town's economy, supply needed housing diversity, and potentially reduce pressure on other areas of the Town desired to remain agricultural in nature by strategically funneling development into a specified area. For an example of a comparable community which has included a Village Center District bylaw, see Pelham's zoning bylaw Section 125-8.2. Village Center Districts Regulations, added in 2018. **See Appendix D – Mixed Use Village Center Fact Sheet & Model Bylaw.**

- 12. Consider a Historic Architecture Overlay District:** Goshen’s historic village is home to landmarks and buildings that build the rural character of the town. The adoption of zoning regulations to ensure that the architecture and historic character of the village is preserved should be considered as the Town does not have a local historic district pursuant to MGL c. 40C to assist with the preservation of historic resources in the town. Zoning bylaw regulations, such as an “Architectural Preservation District”, can establish the authority for regulatory review prior to major alterations, additions, demolitions and new construction within the district, and can also set design standards for new construction in order to encourage compatible building design. This approach to preserving historic resources allows for communities to tailor the regulations to meet their specific needs. The Massachusetts Historical Commission published the [“Preservation Through Bylaws and Ordinances”](#) guide as a reference for the variety regulatory tools for the Town to consider.
- 13. Consider Including Open Space Residential Development (OSRD) Standards:** OSRD development standards are intended to allow for greater flexibility and creativity in the design of residential developments so as to encourage permanent preservation of open space, agricultural or forestry land, wildlife habitat, and more. Allowing for greater density of residences discourages sprawl and encourages more efficient development patterns, which consume less open land. **See Appendix E – Open Space Residential Development Fact Sheet.**

Appendix A – Reorganization of the ZBL

To improve ease of use, understanding and future amendments, we recommend reorganizing the bylaw into the following structure:

Article 1: Purpose and Authority

- Includes contents of current Section I plus authority and applicability provisions

Article 2: Districts

- Establishment of district (current Section III)
- Floodplain Overlay District (Current Section IV.D1)
- Purpose statements for each district
- Zoning map

Article 3: Use Regulations

- Table of uses by district
- General use regulations (current Sections IV, VIII, XIII)
- Use-specific standards

Article 4: Dimensional Requirements

- Table of lot size, setback, height standards by district (current Sections V-VII)
- Exceptions and special provisions

Article 5: General Development Standards

- Off-street parking and loading (current Section IX)
- Signs
- Landscaping and screening
- Stormwater and erosion control
- Other generally applicable development standards

Article 6: Special Regulations

- Environmental performance standards
- Medical/Adult Use Marijuana establishments (Current Appendix IV.D2)
- Large-Scale Ground-Mounted Solar Photovoltaic Installations (Current Appendix IV.B.4.c)

Article 7: Nonconforming Uses and Structures

- Current Sections II and X combined

Article 8: Administration and Procedures

- Enforcement (Building Inspector), violations and penalties
- Zoning amendments
- Special permits and variances
- Site plan review
- Appeals

Article 9: Definitions

- Consolidate all definitions into this article

Appendix B – Model General Bylaw for Short Term Rental

General Bylaws

Chapter __. Short-Term Rental Bylaw

Section 1. Purpose and Intent

The purpose of this chapter is to provide for the administration and enforcement of the (insert name of town) Short-Term Rental Bylaw which provides for registration of short-term rental units in order to protect the health, safety, and welfare of both the occupant(s) of those rental housing units and the general public and to maintain the quality of life in residential neighborhoods of the Town.

The intent of permitting short-term rentals is to:

- a. Provide a process through which eligible residential dwelling units may be registered with the Town of (insert name of town) for use as “short-term rentals,” as defined in Section 2 of this chapter, for the orderly operation of short-term rentals within the Town and prevent negative impacts on neighborhood character, housing availability, house prices, availability of long-term rental units and impacts on infrastructure services such as sanitary systems, parking, access, fire codes, building code enforcement and snow removal;
- b. Assist the Board of Health, the Building Department and the Fire Department in the enforcement of state and local health and safety laws and regulations related to short-term rental units and to provide a method for correcting violations when conditions require immediate attention in situations associated with Short-Term Rentals.

Section 2. Definitions

- a. **Accessory Dwelling Unit:** An Accessory Dwelling Unit is a self-contained housing unit incorporated within a single-family dwelling (or in a detached accessory structure with a Special Permit) that is clearly a subordinate part of the single-family dwelling and complies with Section __ of the Town of (insert name of Town) Zoning Bylaws.
- b. **Building Inspector:** The Building Inspector for the Town of (insert name of town) or his designee.
- c. **Inspectional Departments:** Consisting of Town of (insert town name) Building, Health and Fire Departments.
- d. **Occupancy:** The use or possession of or the right to use or possess a short-term rental of not more than 30 consecutive days.
- e. **Occupant (Guest):** Any individual residing overnight in a short-term rental.
- f. **Operator (Host):** Any person or entity operating a short-term rental.
- g. **Operator’s Agent:** A person who, on behalf of an operator of a short-term rental:
 - i. Manages the operation or upkeep of a property offered for rent; or

- ii. Books reservations at a property offered for rent. An “operator’s agent” shall include, but not be limited to, a property manager, property management company or real estate agent.
- h. **Owner:** Any person, as defined immediately below, whom alone or severally with others has legal or equitable title or a beneficial interest in any dwelling unit; a mortgagee in possession; or agent, trustee or other person appointed by the courts.
- i. **Person:** An individual, partnership, trust or association, with or without transferable shares, joint stock company, a corporation which is not publicly traded, society, club, firm, organization, institution, estate, receiver, trustee, assignee or referee any other person acting as a fiduciary or representative capacity, whether appointed by a court or otherwise, or any other combination of individuals, directly or indirectly, or through any agent, employee, stockholder, officer of other person or any subsidiary whatsoever acting as a unit, including a governmental unit other than the Town of (insert town name) or any of its agencies.
- j. **Problem Property:** A property that includes violations of building, fire, zoning, health or sanitation codes and often presents itself as a health hazard of public safety concern. It may also include properties where illegal activities are known to occur or those where a license has previously been revoked or denied.
- k. **Short-Term Rental:** A residential, primary residential, or mixed-use dwelling unit or any bedroom within a dwelling rented out through the use of advance reservations, for a fee, for a period of not less than one (1) day and not more than 30 consecutive calendar days; hotels licensed under M.G.L. Chapter, 140, Section 6; motels licensed under M.G.L. Chapter 140, Section 32B; lodging establishments licensed under M.G.L. Chapter 140, section 23 or; bed & breakfast establishments licensed under Section _____ of the Zoning Bylaws of the Town of (insert town name).

Section 3. Short-Term Rental Registration

Registration is Required. Short-Term Rentals shall only be allowed in one- or two-family or multifamily dwelling units or pre-existing accessory buildings.

- a. No owner shall rent, or offer to rent, any Short-Term Rental prior to registering with the (insert town name) Board of Selectmen/Select Board. No tenant or lessee of an Owner shall let or sub-let a Short-Term Rental.

Each town should decide if they will place limitations on the number of STRs allowed in the community, both initially and in the long term.

- b. Limits on total number of registrations within the Town shall be 12 active units or less, until _____, 20__; thereafter **not more than 24 Short-Term Rentals** shall be allowed in Town at any one time.

- c. Compliance. A dwelling used as a Short-Term Rental shall at all times be in compliance with the provisions of all state and local health and safety laws, bylaws and regulations, including, but not limited to; Section ____ (name of section) of the Town of (insert town name) Zoning Bylaws, the Fair Housing Act, M.G.L. c. 272, S. 53 Disturbing the Peace, M.G.L. c. 151B Unlawful Discrimination, and local equivalents and regulations related thereto, and all other regulations applicable to residential dwellings, except as specifically set forth otherwise herein.
- d. Multifamily. Only one of the dwelling units within a multifamily building may be registered as a Short-Term Rental.
- e. Application Required. The Owner of the dwelling shall be required to complete a (insert town name) Short-Term Rental registration application with the (insert town name) Board of Selectmen. The Applicant shall also provide proof each Short-Term Rental is registered with the Massachusetts Department of Revenue.
- f. Abutter Notification. For an initial application to register a property as a Short-Term Rental, the Applicant is required to send notification informing abutters within 300 feet and provide proof to the Town of the notification using one of the following methods; hand deliver; certified mail, return receipt requested; certified mail. Proof of abutter notification shall be included with the application.
- g. The (insert town name) Board of Selectmen shall, in accordance with the above sections, issue a certificate of registration which shall expire on the following December 31, provided that the certificate may be renewed each year.
- h. Registration Renewal. Short-Term Rental registrations shall be renewed annually upon payment of the renewal fee.
- i. Fees. The fee for a Short-Term Rental registration or a renewal of a registration shall be \$200.
- j. Non-Transferability. Short-Term Rental registrations shall be granted solely to an Owner and shall not be transferable or assigned to any other person, legal entity, or address. The registration does not run with the property; it shall be terminated upon sale or transfer of the property for which the registration has been issued.
- k. Upon enacting this bylaw, owners and operators shall have six months (6) to bring short-term rentals into compliance.

Section 4. Publication of Registration Number

The Town-issued registration number shall be included on any listing offering the Short-Term Rental for rent.

Section 5. Good Neighbor Information

Short-Term rental registrations will be published to the Town website and shall include the name and contact information required of the Operator or Operator's Agent. The website shall also include information about these Short-Term Rental regulations, and instructions and contact information to file a complaint.

Section 6. Posting of Notices

The Town shall provide information to each registered Operator summarizing the regulations for Short-Term Rentals. For each Short-Term Rental Registration issued, this will include, but shall not be limited to: the name and 24-hour contact information of the Operator or Operator's Agent designated in the application, requirements for trash removal, occupancy requirements, parking, and noise restrictions. The Operator shall:

- a. Provide each occupant a copy of the provided information; and
- b. Post the information, along with the Short-Term Rental Registration, in a conspicuous location within the Short-Term Rental; and
- c. Post the Short-Term Rental registration number on a placard visible from the street in the dwelling's front yard or front door.

Section 7. Specific Standards of Short-Term Rental Properties

- a. Trash Removal. The Short-Term Rental Operator shall be responsible for ensuring that household trash is removed from the premises immediately after Occupancy is concluded or once per week, whichever is more frequent.
- b. Parking. A short-term rental shall be limited to parking of one (1) vehicle space per lawful bedroom in a Short-Term Rental. Required parking for Short-Term Rentals shall not be located on the lawn. No on-street parking shall be permitted. Short-Term Rental parking shall not impede traffic flow on the roadway or block driveway access.
- d. Renting for durations of less than twenty-four (24) consecutive hours shall not be permitted. The duration of rental periods may be from one (1) day to thirty (30) days.
- e. Commercial meetings and uses are prohibited in Short-Term Rentals.
- f. Large events or parties that result in loud noises or parking issues are prohibited in Short-Term Rentals.
- g. Events that include tents or amplified sound or which would customarily require a permit are not allowed.

- h. Each Short-Term Rental shall contain functional smoke detectors and carbon monoxide alarms. In addition, the Operator shall provide and maintain one 5 lb. multi-purpose fire extinguisher on each floor.
- i. Noise. No person shall engage in persistent and loud noises between the hours of 10:00 p.m. and 7:00 a.m.

Section 8. Occupancy Requirements

The maximum number of Occupants in a Short-Term Rental shall be two per each bedroom, plus an additional two total.

Section 9. Keeping of Register

The Operator or Operator's Agent shall be responsible for keeping a register containing the name of the Occupant who is the leaseholder, total number of occupants, and dates of occupancy. The register shall be retained for a period of two (2) years.

Section 10. Ineligible Units

The following are not eligible to be rented or offered to rent as Short-Term Rentals:

- a. Dwellings designated as below market rate or income-restricted, that are subject to affordability covenants, or that are otherwise subject to housing or rental assistance under the local, state, or federal law;
- b. No new Accessory Dwelling Units (ADUs) may be permitted for the purpose of becoming a Short-Term Rental;
- c. Dwellings subject to any requirement of local, state, or federal law that prohibits the leasing or subleasing of the unit or use of the unit as a Short-Term Rental.
- d. Dwellings that are the subject of any outstanding building, sanitary, zoning, or fire code violations, orders of abatement, stop work orders, unsafe orders, or cease and desist orders.
- e. Properties designated as Problem Properties, including a property that has previously had a license revoked or denied.

Section 11. Failure to Pay Municipal Taxes, Fees, Assessments, and Charges

The privilege of receiving or holding a Short-Term Rental Registration is contingent upon the timely payment of municipal and district taxes, fees, assessments, and charges. Failure of a Person to comply

with this requirement shall be cause, after notice and hearing pursuant to the requirements of M.G.L. Chapter 40, Section 57, and pursuant to Chapter _____, Section _____ of these General Bylaws, for denial, suspension, amendment, or revocation of a Short-Term Rental Registration for any and all property in which the person holds a direct or indirect ownership interest, as above defined.

Section 12. Inspections

Short-Term Rentals shall be subject to a mandatory initial inspection and thereafter inspections every one (1) year by the (insert town name) Building Inspector, Fire Department, Health Department or other duly authorized authority from the Town.

Section 13. Complaint Process, Violations

Short-Term Rentals may be subject to inspection by (insert town name) Board of Health, Fire Department, and/or the Building Inspector.

- a. A complaint alleging that a Short-Term Rental is in violation of this Chapter or any applicable law, code or regulation may be filed with the (insert town name) Building Inspector. The complaint must contain the Short-Term Rental address, date and nature of the alleged violation(s), and name and contact information of complainant.
- b. An owner or representative of a Short-Term Rental must resolve a complaint (including noise complaints) within sixty (60) minutes of being notified of a complaint.
- c. Inspections may be scheduled in response to complaints by renters or by owners or tenants of neighboring properties. A complaint process shall be made available on the Town of (insert town name) website.
- d. Failure to provide updated contact information will be a failure to comply with this bylaw and may result in the refusal to allow registration renewal if there is a failure to respond after a reasonable attempt is made to contact the Operator/Owner, Booking Agent or Trustee.
- e. Failure to provide access to properties for inspection or failure to comply with orders to correct deficiencies may result in fines or in the refusal to allow registration renewal. Appeals of these penalties may be made within ten business days to the (insert town name) Board of Selectmen.
- f. Offering an Ineligible Unit as a Short-Term Rental. Any person who offers a unit as a Short-Term Rental, where such unit is not an eligible Dwelling Unit or is not registered, may be fined in accordance with the fine schedule herein on a per violation per day basis. Each day's failure to comply with a notice of violation or any other order shall constitute a separate violation. The Building Inspector or a designee may also seek an injunction from a court of competent jurisdiction prohibiting the offering of the unit as a Short-Term Rental.
- g. In the event that there are three or more violations within a twelve-month period, the right to renew registration may be denied by vote of the Board of Selectmen.

Section 14. Penalties

If any Occupant, Operator or Owner violates any provision of this chapter, the Owner may be subject to a fine in accordance with the following: \$150 1st Offense, \$300 2nd Offense and each subsequent offense within a 12-month period. Each day that a violation exists constitutes a separate offense. Failure to register a Short-Term Rental in accordance to the provisions of this chapter will result in double fees in accordance with Chapter __, Section __ of these General Bylaws. Applicant or property owner shall have thirty (30) days to come into compliance or daily fines will accrue retroactively to the date the violation occurred.

Section 15. Enforcement

The Town may enforce the provisions of this chapter by any or all of the following: the noncriminal disposition process of M.G.L. Chapter 40, Section 21D; by seeking to restrain a violation by injunction; and by filing a complaint in any court of competent jurisdiction.

Section 16. Regulations

The (insert town name) Board of Selectmen may adopt regulations, policies and procedures for the implementation of this chapter.

Section 17. Severability

Each provision of this chapter shall be construed as separate. If any part of this chapter shall be held invalid for any reason, the remainder shall continue in full force and effect. In the event of a conflict between this chapter and any other chapter of the General Bylaws or Zoning Bylaws of (insert town name), this Chapter __ shall control.

Section. 18. Annual Reporting

The Board of Selectmen shall publish annually in the Town of (insert town name) Annual Report on the statistical data relating to Short-Term Rentals.

Section 19. Room Occupancy Excise and Community Fees

Short-Term Rentals subject to the provisions of this bylaw are subject to the Room Occupancy Excise under M.G.L. Chapter 64G of up to six (6) percent (M.G.L. C. 64G, §3A) and short-term rental community impact surcharge of up to three (3) percent (M.G.L. C. 64G, §3D).

Appendix C – Smart Growth Community Checklist

SMART GROWTH COMMUNITY CHECKLIST

Town of Goshen



This checklist is designed to assist the Town of Goshen in implementing Valley Vision Smart Growth Strategies at the local level. As part of the Valley Vision Memorandum of Agreement, each community committed to review existing zoning and subdivision regulations to determine if they are consistent with Valley Vision, as well as consider the adoption and enforcement of land use regulations designed to promote efficient growth consistent with Valley Vision. This checklist has been developed to assist your community in these tasks.

The checklist can also be used to assist your community in increasing its Commonwealth Capital Score. Commonwealth Capital is a policy developed by the Commonwealth of Massachusetts to encourage communities to implement smart growth within their land use regulations as part of the evaluation of proposals for state funding programs. The most recent Commonwealth Capital Score in the Town of Goshen was 35 points in FY05. The maximum number of points a community can score is 140. Based on recommendations in your community land use plans, implementation of key smart growth policies will also improve your community's Commonwealth Capital Application score.

The Smart Growth Strategies in Valley Vision provide a menu of smart growth options a community can select from, depending on the size and character of your community. While not every strategy fits every community, you will find that many strategies are a good match for your community. The options that are highlighted in this checklist are based on the goals and objectives Goshen residents identified in its municipal plans, such as Community Development Plan, Open Space and Recreation Plan, and Commonwealth Capital Application. Additional recommendations have also been provided by PVPC, largely on new zoning tools that might not have been considered in previous planning efforts.

At this time, Goshen has implemented three (3) Smart Growth Strategies highlighted in the regional land use plan, Valley Vision. Based on strategies identified in your community plans, as well as recommendations made by the Planning Commission based on Valley Vision, your community could consider implementing nine (9) additional smart growth strategies in the future.

Last updated: May 2010

TOWN OF GOSHEN

SMART GROWTH COMMUNITY CHECKLIST

Recommend	Adopted	Valley Vision Strategy #	Building Block	Identified in / by
		1	Traditional Neighborhood Development	
		1	Transit Oriented Development	
✓	✓	2	Mixed Use Village Districts	Community Development Plan (2004)
		2	Planned Unit Development	
		3	Adaptive Reuse and Infill Development	
		3	Tax Incentive Programs and Business Improvement Districts	
✓		4	Open Space Residential Development	Community Development Plan (2004)
✓		4	Conservation Development	PVPC
✓		5	Accessory Apartments	PVPC
		5	Inclusionary Zoning	
✓		5	Home Based Business Bylaw	Community Development Plan (2004)
		5	<u>Smart Growth Zoning District (Ch. 40R)</u>	
		6	Brownfields Inventory	
		6	Brownfields Redevelopment Projects	
		7	<u>Transfer of Development Rights</u>	
✓		7	Agricultural Commissions	PVPC
✓	★	7	Right to Farm Bylaws	PVPC
		8	<u>River Protection Overlay District</u>	
✓	✓	8	Community Preservation Act	PVPC
✓		8	Scenic Upland Overlay District	PVPC
		9	Bike and Pedestrian Features	
		9	Traffic Calming Measures	
✓		10	Water Supply Protection District	PVPC
✓		10	Low Impact Development	PVPC
		10	<u>Stormwater and Erosion Control Bylaw</u>	
		10	<u>Stormwater Utilities</u>	
		11	Commercial Site Plan Review	
		11	<u>Commercial Performance Standards</u>	
		12	Urban Growth Boundaries / Limits of Sewer and Water Extensions	
✓		13	Green Building/ Stretch Code	PVPC
✓		13	Municipally Owned Clean Energy	PVPC
✓		13	By-Right Zoning for Clean Energy Generation	PVPC
✓	★	13	Green Communities Certification	PVPC
✓		13	Green Performance Standards	PVPC
✓	✓	15	Intergovernmental Compact+	
		16	Planning Board Assistance Program	

+ Valley Vision MOA; Clean Energy Plan MOA

★ Adopted by the Town since Valley Vision's last update in 2010

Note: The Town has not yet adopted Mixed Use Village District zoning.

Appendix D - Mixed Use Village Center Fact Sheet & Model Bylaw

MIXED USE DEVELOPMENT DISTRICTS

What is the objective of Mixed Use Development Districts?

Mixed use districts foster well-planned, mixed-use, compact developments within downtown and village areas, in keeping with the character of traditional New England villages. They can create places with unique and positive local identities, and provide development opportunities for expanding a community's economic diversity and vitality.

Why are Mixed Use Development Districts needed?

Low-density urban sprawl has become the Pioneer Valley's dominant form of growth, consuming open land at an accelerated pace. Smart growth principles promote the mixing of commercial and residential uses to help create more interesting, functional, and environmentally sensitive built environments. Mixed-use developments integrate housing, shops, offices, schools, parks, and civic facilities into compact areas to make biking, walking, and using transit easier. They can help limit sprawl and lessen air pollution.



How do Mixed Use Development Districts work?

Communities can adopt mixed use village center zoning to provide for pedestrian-friendly “Main Street” shopping districts with attractive facades, parking on the street or behind buildings, tree-lined streets and human scale buildings with offices/apartments above first-floor shops. Mixed-use projects can combine residential, retail, office, and public institutional uses in compact villages or clusters to provide opportunities for people to live close to work and services.

A Mixed Use Development District can be adopted as either a stand-alone zoning district, or as an overlay district which can be superimposed over several underlying zoning districts. This bylaw/ordinance does not create any new zoning restrictions, but rather allows new opportunities for economic development.

The Bylaw/Ordinance will allow mixed use developments to be constructed with the approval of a Special Permit with Site Plan Approval granted by the Planning Board. The following uses may be included within a mixed use development: retail uses; quality restaurants; multi-family residential uses; home occupations; professional service offices; personal service establishments; municipal uses; banks or financial institutions; health club; small hotel or motel; bed-and-breakfast establishments; townhouses; theatre; park; artist studio/residence; assisted living residential uses; parks and recreation; artisan manufacturing; civic uses; live/work units; multiple uses in the same structure.

The Bylaw/Ordinance prohibits certain uses in Mixed Use developments, such as industrial uses, gas stations, dry cleaning, auto sales, adult uses, bars, and animal hospitals.

To protect the community and neighborhoods, the Bylaw/Ordinance contains detailed performance standards for such issues as: access and traffic impacts; noise; vibration; odors; lighting; storage; waste disposal; loading; vehicular access; parking; architectural design; signs; and landscaping.

Finally, the Bylaw/Ordinance provides a density bonus for Mixed Use developments that include affordable housing.

DID YOU KNOW...

In a Seattle study, authors found that by mixing land uses and enhancing the relative convenience on non-auto travel, 12.2% of all trips were non-motorized, compared to 3.9% in single-use residential neighborhoods.

MIXED USE DEVELOPMENT EXAMPLES FROM THE PIONEER VALLEY

South Hadley Village Commons

The Village Commons is an outstanding example of a mixed use development in South Hadley center, which includes retail shops and restaurants, a movie theater, as well as a residential component. It is designed to fit compactly on a small site on the town common, with a well-defined street line, pedestrian-friendly features and parking in the rear.

Pomeroy Commons, Amherst

Pomeroy Commons is a mixed-use development in Pomeroy Village Center of Amherst. Five townhouse-style residential units occupy the top two floors, with commercial space on the street level. The site is located in the center of south Amherst, within walking distance of many amenities. The building features a front porch and balcony in the style of a grand old Berkshires hotel, parking in the rear, and secure bicycle storage in a shed at the end of the building.

MODEL MIXED USE VILLAGE CENTER BYLAW
Prepared by Pioneer Valley Planning Commission 2-05

MIXED USE VILLAGE CENTER DISTRICT (MUV)

A. INTENT

The intent of the Mixed Use Village Center District is to foster well-planned, mixed-use, compact developments in the village center in _____, in keeping with the character of traditional New England villages, in order to create a place with a unique and positive local identity, and provide opportunities for development to expand the town's economic diversity and vitality.

B. GOALS

Development within this district should provide commercial, civic, residential uses and public open space within easy, safe walking distance of each other. Vehicular circulation should be safe and well organized, with the use and visual impact of cars minimized. There should be tree lined streets, sidewalks, well-designed architecture, and common interconnected open public spaces. Property developers are encouraged to provide amenities such as protected open space, increased landscaping, street furniture, public spaces, and greater integration of mixed uses.

C. PURPOSES

The purposes of this bylaw are to encourage vital, innovative, development projects and uses in the village center that:

- (1) Provide a compact and diverse mix of housing, office, retail, service and civic uses, including a mixture of uses in the same building;
- (2) Exhibit the design features of traditional villages and small towns in New England;
- (3) Facilitate more efficient provision and maintenance of public services and infrastructure;
- (4) Blend well with the existing landscape and help preserve sensitive environmental features;
- (5) Provide the opportunity for people to work, shop and utilize services in the vicinity of their residences;
- (6) Preserve and restore the overall character of the village center;
- (7) Promote a pedestrian-friendly environment in the village center,
- (8) Encourage the growth of the local economy and jobs, including development of flexible space for small and emerging businesses,
- (9) Encourage the development of open spaces and parks within the village center to accommodate workers, residents, pedestrians and shoppers.

D. USE REGULATIONS

(1) Permitted Uses

a) Single family residential dwellings are permitted by right in the Mixed Use Village Center District.

b) The uses noted in Table One are permitted with Site Plan Review from the Planning Board in the Mixed Use Village Center District:

Table One. Uses Permitted with Site Plan Review in Mixed Use Village Center District

a) RESIDENTIAL USES	b) COMMERCIAL USES	c) CIVIC USES
1) Townhouses; 2) Elderly congregate housing; 3) Accessory apartments, within single family residences; 4) Apartments on the second floor of commercial uses; 5) Semi detached dwellings;	1) Professional offices, including law or medical offices; 2) Business offices and support services; 3) Banks or financial services; 4) General retail sales; 5) Personal services (laundry, dry cleaning or similar); 6) Health club, indoor sports and recreation; 7) Grocery or convenience store; 8) Restaurant or delicatessen (but not including drive-in service); 9) Consumer repair services; 10) Theater or indoor entertainment; 11) Agriculture, horticulture, floriculture and viticulture; 12) Farmstands; 13) Mixed uses, wherein a combination of permitted uses are permitted in the same building; 14) Bed and breakfast inn; 15) Artist studio or gallery;	1) Municipal or governmental facilities, such as post office or administrative offices; 2) School or educational institution; 3) Church or religious uses; 4) Library or museum; 5) Utility services; 6) Community park or recreation facilities; 7) Public transit facilities; 8) Pedestrian or bicycle facilities; 9) Day care services for children or elderly; 10) Lodge or club;

(2) Prohibited Uses

The following uses are prohibited within the Mixed Use Village Center District:

- a) Drive-in or drive-through restaurant;
- b) Establishment selling or repairing new or used motor vehicles;
- c) Lodging house;
- d) Communications or television tower;
- e) Self-service storage facility;
- f) Commercial fuel oil storage;
- g) Commercial earth removal operation;
- h) Industrial or manufacturing use;
- i) Freight or trucking terminal;
- j) Warehousing;
- k) Residential apartment building;
- l) Commercial kennel;
- m) Lumber mill;
- n) Miniature golf courses;
- o) Adult entertainment uses;
- p) Junkyards;
- p) Other uses not specifically permitted in Table One above.

E. DIMENSIONAL REQUIREMENTS

(1) Dimensional Requirements

(a) The following dimensional and density requirements shall apply to developments in the Mixed Use Village Center District (MUV), except as otherwise noted:

Table Two. Dimensional Requirements in the Mixed Use Village Center District

<u>Requirement</u>	<u>Minimum Lot Size</u>	<u>Minimum Lot Frontage/Width</u>	<u>Minimum Lot Depth</u>	<u>Minimum Front & Side Yard Setback</u>	<u>Maximum Front Yard Setback</u>	<u>Minimum Rear Yard Setback</u>
Single family detached residential dwelling	15,000 square feet	50 feet	100 feet	10 feet, except 25 feet from collector streets and from the edge of the MUV zone	35 feet	20 feet, except 25 feet from collector streets and from the edge of the MUV zone
Semi detached dwelling	10,000 square feet	35 feet	100 feet	10 feet, except 25 feet from collector streets and from the edge of the MUV zone	35 feet	20 feet, except 25 feet from collector streets and from the edge of the MUV zone
Townhouse	10,000 square feet per structure, plus 2,000 square feet per unit in structure	20 feet	100 feet	10 feet, except 25 feet from collector streets and from the edge of the MUV zone	35 feet	20 feet, except 25 feet from collector streets and from the edge of the MUV zone
Commercial or civic or mixed use building	30,000 square feet	60 feet	140 feet	10 feet, except 25 feet from collector streets and from the edge of the MUV zone	25 feet	20 feet, except 25 feet from collector streets and from the edge of the MUV zone

Table Three. Additional Dimensional Regulations for All Uses in the Mixed Use Village Center District

Requirement	Maximum or Minimum Standard
Building Height	48 feet maximum
Impervious Coverage, including buildings, parking lots, roads	50% maximum
Open Space Percentage	25% minimum

(b) The Planning Board may, as part of Site Plan Review, allow frontage requirements to be met on private internal access roadways if they find that adequate and permanent access is provided to the lot and that the access roadways are designed to serve as many parcels as possible, to function efficiently to link other internal and external roadways or future roadways, and to minimize curb cuts onto town and state streets to the minimum required for safe access.

F. SITE PLAN REVIEW

(1) Site Plan Review Process

(a) Procedures

An applicant proposing to develop a property under the requirements of this bylaw shall submit a Site Plan Review application to the Planning Board, and shall comply with all applicable provisions of the _____ Zoning Bylaw.

(b) Applicability

No building permit for construction within the Mixed Use Village Center District shall be granted until the provisions of this section have been fulfilled, and Site Plan Review has been completed for the specific use proposed.

(c) Approval Process

All applicants must submit 8 copies of a Site Plan to the Planning Board for review. The Planning Board shall undertake comprehensive review of these plans in accordance with the Site Plan Review regulations in Section ____ of the _____ Zoning Bylaw, including timetables and public hearing requirements therein. Within 7 days after the submission of a final plan, the Planning Board shall refer copies of the Site Plan to the Board of Health, Conservation Commission, Building Inspector, Public Works Department, Historical Commission, Police Department and Fire Department, who shall review the application and submit their recommendations and comments to the Planning Board within 30 days. Before a decision on a Site Plan is given, the Planning Board shall hold a public hearing on the plan, in accordance with Site Plan Review regulations. The Planning Board shall take final action within 90 days after submission of a Site Plan.

(2) Site Plan Contents and Fees

(a) Each Site Plan must contain the following information:

- [1] locations, layouts and sizes of all proposed uses;
- [2] layout of the transportation network for vehicles, transit, pedestrians and bicyclists;
- [3] location, layout and size of private and public open space and open space improvements;
- [4] location of major utility facilities;
- [5] landscaping plans for streetscapes, parks and recreation areas;
- [6] all information required for Special Permit applications in Section _____ of the _____ Zoning Bylaw;
- [7] locations and types of environmentally sensitive areas, including floodplains, wetlands, water supply protection areas, steep slopes, river protection areas, and agricultural lands, and plans to protect or mitigate impacts to these areas;
- [8] Building designs for all commercial or civic buildings prepared by a licensed architect, and landscaping plans prepared by a licensed landscape designer;
- [9] Locations and types of drainage and water quality controls.

(b) Site plans should be prepared at a scale sufficient for the Board to make its decision, but a minimum of 1"=40 feet, and should include topography at two foot contour intervals. A page size reduction is also required. The required fee for submittal of Site Plans is \$____.

(c) The exact form and contents of the application, fees, plans and information shall be as required by the Rules and Regulations of the Planning Board. The Board shall adopt, and may periodically amend, after a public hearing, such Rules and Regulations relating to the procedures and administration of this section and such Rules and Regulations shall be on file at the Planning Department and Town Clerk's office.

(3) Design Standards

In order to receive Planning Board approval, the Planning Board must find that the Site Plan meets the following design criteria:

- (a) commercial uses should be pedestrian-friendly, either clustered together or laid out as small-scale “Main Street” style shops, with buildings brought up to the street and sidewalk, and common, shared parking in the rear;
- (b) all uses should be linked by a network of sidewalks or bicycle paths, which should also connect to the townwide paths or walkways where feasible;
- (c) streets and roads should be lined with street trees, sidewalks and decorative, pedestrian scale lighting;
- (d) commercial and civic uses should be architect-designed, consistent with the _____ Design Guidelines Handbook, recreating the character of a traditional New England village;
- (e) utilities should be underground.

(4) Development Standards

In order to receive Planning Board approval, the Planning Board must find that the Site Plan meets the following Development Standards:

(a) General Standards

Public water and sewer service is required for all development. All utility lines such as telephone, cable television, and electric are to be located underground.

(b) Pedestrian Circulation and Amenities

Provision for safe and convenient pedestrian access shall be incorporated into all Plans. Concrete or brick walkways shall be provided throughout the site. Pedestrian amenities are encouraged, such as: public art; fountain; tables, chairs, or benches; bike racks or lockers;

(c) Parking

(i) Off-street parking for commercial uses shall be sufficient to provide parking for the employees of all proposed uses as well as long-term customer parking. Parking lots shall be discouraged from front yard setback areas, and instead shall be located at the rear of buildings on the interior of lots, whenever possible, and shall be accessed by means of common driveways, preferably from side streets or lanes. Such lots shall be small in size (less than 25 parking spaces), where possible, and interconnected with commercial parking lots on adjacent properties. Shared parking facilities are encouraged.

(ii) In addition to the off-street parking requirements specified above, on-street parking shall be provided to serve customers of commercial uses. The minimum requirement for on-street parking shall be one curbside space for each 500 square feet of gross floor area of commercial uses. Where the minimum on-street parking requirement cannot be completely complied with, the deficient number of spaces shall be provided in off-street parking lots.

(d) Service, Loading, and Refuse Areas

Each commercial, civic or mixed use building shall be provided with an adequate service and/or loading area and:

- (i) shall be designed so that they may be used without blocking or otherwise interfering with the use of through streets, parking facilities, or pedestrian circulation;
- (ii) shall not be located on the sides of buildings that face external streets or internal collector streets;
- (iii) shall be screened from streets, parking areas, and residential lot lines by architectural elements or landscaped buffers.

(e) Landscaping

- (i) Street trees shall be planted within the right-of-ways parallel to the street along all streets. Trees shall have a minimum caliper of 2.5" at the time of planting.
- (ii) Tree spacing shall be determined by species type. Large maturing trees shall be planted a minimum of 40 feet and a maximum of 50 feet on center. Small and medium maturing trees shall be planted a minimum of 10 feet and a maximum of 30 feet on center.
- (iii) All parking areas with 5 or more spaces shall provide effective screening of the parking area from adjacent streets or properties.
- (iv) Parking areas of 10 or more spaces shall provide a minimum of 10 percent of the total parking area as landscaped open space.
- (v) Parking areas of 25 or more spaces shall provide landscaped islands of a minimum width of four feet for the purposes of :
 - [1] defining parking lot entrances,
 - [2] defining the ends of a portion of the parking aisles,
 - [3] defining the location and pattern of primary internal access drives,
 - [4] separating parking spaces within long rows of spaces, and
 - [5] separating some of the rows of parking spaces from other rows.

(f) Lighting

- (i) Any outdoor lighting fixture newly installed or replaced shall be designed so that it does not produce a strong, direct light beyond the property boundaries
- (ii) All lighting shall follow a uniform lighting system.
- (iii) Lighting fixtures shall be decorative, pedestrian-scaled fixtures.

(g) Appearance/Architectural Design

- (i) Architectural design shall be compatible with the character and scale of buildings in the neighborhood and the Town through the use of appropriate building materials, screening, breaks in roof and wall lines and other architectural techniques. 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 where appropriate. Development shall comply with the standards set forth in the _____ Design Guidelines Manual.

- (ii) In making its decision, the Planning Board may consider whether the building design is compatible with the following design guidelines: 1) exterior facades are faced with wood, metal or vinyl clapboards, or stone, or brick; 2) exterior façade treatment is compatible on all four sides; 3) rooflines are peaked.

(h) Stormwater Management

- (i) To the extent practicable, the site shall be designed to manage stormwater on-site through the use of natural and structural methods which conform with MA DEP Stormwater Policy.

- (ii) An erosion control plan which is designed to prevent erosion and sedimentation of waterbodies during construction shall be developed and submitted to the Planning Board.
- (iii) The development shall, at a minimum, be designed to meet the Stormwater Management Policy of the Massachusetts Department of Environmental Protection.
- (i) Other Applicable Standards
- (i) The proposed use shall meet all standards for noise, dust, off-street loading, vehicular access, signage, parking and other applicable zoning standards in the Town of _____ Zoning Bylaw.

F. DEFINITIONS

ACCESSORY APARTMENT - An independent self-contained dwelling unit consisting of one or more rooms, with private bath and kitchen facilities on a lot containing a single-family dwelling. Only one accessory apartment may be created within a single-family house, and it shall be clearly subordinate to the main unit. In no case shall it be more than twenty-five percent (25%) of the building's total floor area, nor greater than eight hundred (800) square feet, nor have more than one bedroom. The accessory apartment shall be designed so that, to the degree reasonably feasible, the exterior appearance of the entire home remains that of a one-family residence. If a second external entrance is provided for the accessory unit, it cannot be located on the side of the building facing the street, but rather must be located to the side or rear of the structure. Either the principal residence or the apartment must be owner-occupied.

APARTMENT ON SECOND FLOOR OF COMMERCIAL USE - One or more rooms with private bath and kitchen facilities comprising an independent self-contained dwelling on the second floor of a building with commercial use or uses on the ground level.

ELDERLY CONGREGATE HOUSING - A dwelling providing shelter and services for the elderly which may include meals, housekeeping and personal care assistance.

LODGE OR CLUB - A facility to house a group of people organized for a common purpose to pursue common goals, interests or activities and usually characterized by certain membership qualifications, payment of dues and fees, regular meetings, and a constitution and bylaws.

LODGING HOUSE - A facility in which temporary rental sleeping accommodations are provided to transient individuals or families, and in which meals also may be provided as part of the fee.

PERSONAL SERVICES - Establishments engaged in providing services involving the care of a person or their apparel. Personal services includes the following: laundries and dry cleaning, beauty shops, barber shops, shoe repair, funeral services, health clubs, clothing rental, and similar services.

SEMI DETACHED DWELLING - A one-family dwelling attached to one other one-family dwelling by a common vertical wall, each dwelling located on a separate lot, with front facades offset.

TOWNHOUSE - A one-family dwelling in a row of at least three such units in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one or more common fire resistant walls.

UTILITY SERVICES - Establishments engaged in the transmission or distribution of electricity, gas, or steam, or as part of water, sewer and sanitary systems.

G. MISCELLANEOUS PROVISIONS

- (1) Conflict with other laws.

All development activities within the Mixed Use Village Center District shall comply with applicable laws, regulations, and standards of the town, except that in the event of a conflict between this bylaw and any such laws and regulations, the provisions of this Bylaw shall control, provided that they are consistent with state and federal law.

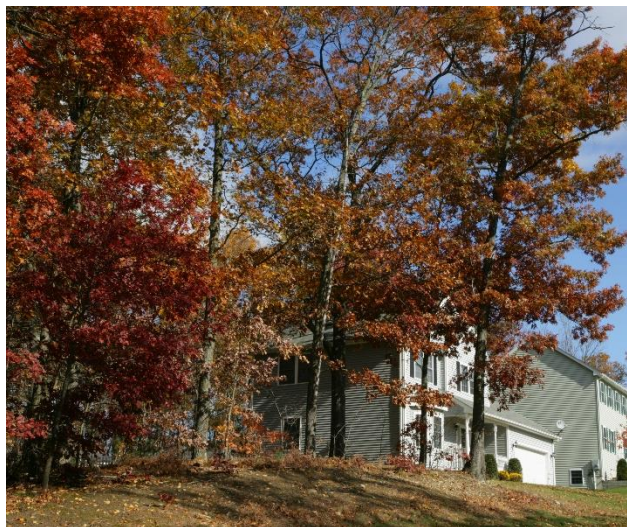
(2) Severability.

If any section or provision of this bylaw is found by a court of competent jurisdiction to be invalid, such invalidity shall not affect the validity of any other section or provision of this Bylaw.

Appendix E – Open Space Residential Development Fact Sheet

OPEN SPACE RESIDENTIAL DEVELOPMENT, CREATIVE DEVELOPMENT, & CONSERVATION DEVELOPMENT BYLAWS

What are the objectives of Open Space Residential and Conservation Developments?



Cluster, Open Space, Conservation or natural Resource Developments, they are called many names as they've evolved over the decades but they are all essentially a variation on a theme, developments utilizing smaller lots in order to create more common open spaces. By promoting compact residential developments utilizing more flexible dimensional standards communities can preserve and enhance their rural town character by protecting open space, natural resources, and scenic areas, as well as promote the use of sustainable and energy efficient development standards .

Why do we need Open Space Residential & Conservation Developments?

Growth in many of our small cities and towns has been primarily comprised of ANR residential development along existing town roads and large lot single family home subdivisions. This has resulted in sprawling residential strips and the clearing of large swaths of woodlands and the conversion of farmland for individual single family homes. This has not only resulted in the loss of natural resources but has also contributed to the loss of a community's rural character and small town identity. Open Space Residential and Conservation Developments provide an alternate way for towns to accommodate growth, but in a more flexible manner which preserves open space and reduces the visual impact of residential development.

How do Open Space Residential and Conservation Development bylaws work?

These types of bylaws promote development using common driveways and flexible area and frontage requirements to create permanent open space and avoid standard Approval Not Required and conventional subdivision developments. While some versions are permitted by Special Permit recent variations are allowed by-right with a Site Plan Approval process. Through this process, towns work with the applicant to consider development standards such as Stormwater Management, Low Impact Development, Green Energy and Open Space Connectivity in designing the layout of lots and designing the development around the unique characteristics of the land. A portion of the development must also be set aside as permanently protected open space.

Over 65% of the communities in the Pioneer Valley Region have adopted Open Space Residential and Conservation Development Bylaws in one form or another.

DID YOU KNOW...

In a national random sample survey of 1,130 adults age 18 and older, about 55 percent of Americans prefer a smart growth community and 45 percent prefer a sprawl community, after hearing detailed description of the two community types. (2004 National Community Preference Survey, conducted for Smart Growth America and National Association of Realtors).

PVPC offers three model variations of these bylaws:

Open Space Residential Development bylaw

This model is based on the more traditional cluster concept adopted by most communities in the region over the last 30 years. It often requires a Special Permit, Open Space Residential Developments permit greater density on smaller lots but includes specific minimum dimensional requirements for the reduced lot sizes and frontages. This bylaw typically requires a minimum 50% open space requirement. Only a limited percentage of the open space can be composed of wetlands, floodplains and areas of steep slopes to ensure adequate open space for active outdoor recreational activities.

Creative Development Bylaw

Expanding on the original version, Creative Development Bylaws utilize the same principles as Open Space Developments but allow more flexibility by utilizing common driveways and permitting reduced minimum lot sizes with no minimum frontage requirements. The purpose of this approach is to preserve open space and encourage structures to be situated on the site in a manner that minimizes their visual impact. Creative Developments are permitted by Special Permit and offer Farmland Preservation Standards as well as an Affordable Housing alternative.

Conservation Development Bylaw

Representing a more recent evolution of the concept, and building on the Creative Development Bylaw, Conservation Development Bylaws provide extremely flexible dimensional standards with no dictated minimum lot size or frontage requirements. The purpose of this is to encourage the design of the development that best fits the parcel's unique landscape--conserving the most unique features and blending roads and structures into the site's existing topography, vegetation, and context. The type of conserved open space has been expanded to also include farmland, historic/cultural and significant natural features, endangered species habitat and scenic views. The intent is that through the imaginative layout of the road, buildings and open space these parcels can appear to be undeveloped from the town roads giving the appearance of open space. To encourage developers to take advantage of this alternative Conservation Developments are often permitted By-Right with Site Plan approval and apply to both "ANR" lots and subdivisions.