

Local Visitability Policies & Initiatives

AARP Public Policy Institute

Center for Inclusive Design and Environmental Access

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NAME:

Accessibility and Visitability Policy

TOOL DESCRIPTION:

Establish a policy to encourage production of more accessible and visitable units in new construction and rehabilitation projects for both multi-family and single family projects.

NEED AND BENEFIT:

There is a strong need for more permanently affordable and accessible units in Alexandria. HUD data estimates that almost 800 low and very low income renter households with disabilities have unmet housing needs.

Establishing and achieving a target percentage of affordable accessible and/or visitable units in all new construction and rehabilitation projects will provide persons with disabilities significantly greater housing choice (both in terms of location and housing type).

For visitability, the City should set as a target a minimum of 20% in all new construction and rehabilitation projects and for accessibility, a target consistent with HUD standards (5% of units for physical disabilities and 2% for sensory disabilities).

For reference: The term *visitable* describes a housing unit that enables persons with disabilities to visit, with an accessible entrance, bathroom and common area. The term *accessible* is more specific in approach, and addresses the complete modification of a unit to accommodate persons with disabilities.

CHALLENGES:

There is some indication from the development community that current market forces pose a challenge to renting/selling fully accessible units, and that they are often the last to be rented or sold. The proposed "Clearinghouse" (see separate tool sheet) could alleviate some concerns about marketability by helping to identify/match up potential renters/buyers and appropriate units.

In addition, the City is not currently enabled by the State to mandate these levels of accessibility. Until the City has this power, meeting accessibility targets will need to be accomplished through the development special use permit process negotiation, or potentially through the use of incentives identified in the master plan.

LEAD PARTNERS:

Office of Housing, Department of Planning & Zoning
Office on Human Rights
Code Administration

PROJECTED COST:

Initial Investment: \$5,000 to \$20,000 per unit
Annual Operation: \$50,000 - \$100,000

REVENUE SOURCES:

City of Alexandria General Fund, CDBG, HOME, LIHTC, Medicaid, VHDA



PRESERVATION



NEW DEVELOPMENT



SPECIAL NEEDS



HOMEOWNERSHIP



OUTREACH



IMPLEMENTATION SCHEDULE:

☐ Short-Term

☒ Mid-Term

☐ Long-Term

ACTION STEPS:

STEP 1:

Establish visitability and accessibility target percentages for all new construction and rehabilitation projects (if different from recommended levels at left). These would serve as "minimum expectations" for new projects.

STEP 2:

Draft an accessible/visitable housing policy stating desired percentage of accessible units in all newly constructed housing, as well as rehabilitation goals for visitable units in properties undergoing significant rehabilitation (i.e. improvements valued at greater than 33% of existing building value).

STEP 3:

Adopt the new policy, develop training as needed for city staff and outreach to developers regarding the new policy.

STEP 4:

Utilize clearinghouse to identify potential tenants/buyers for the visitable/accessible units to share with developers and property owners willing to participate with this policy.

STEP 5:

Consider implementing incentive tools detailed in this Plan that provide financial inducements to development community with enabling language so they can be used to achieve the stated visitable/accessible targets of the new policy.

**NAME:****Accessory Dwelling Unit Policy****TOOL DESCRIPTION:**

A policy that permits accessory dwelling units under certain conditions, if the accessory unit is dedicated for affordable housing.

NEED AND BENEFIT DESCRIPTION:

Accessory units are implemented in many communities as a means for providing affordable housing in context-sensitive design solutions. Units in a detached structure or within a primary residence can function as garage apartments, carriage houses, english basements, in-law suites, etc. They have been popular as an additional revenue source for the homeowner to subsidize housing costs, particularly seniors on a fixed income. Key benefits include:

1. The addition of affordable rental housing units to housing stock.
2. Rents that are generally lower than for comparably sized non-accessory apartments.
3. Opportunity for older residents to age in place by supplementing fixed income.
4. Efficient use of existing housing stock and renewed upkeep of older neighborhoods.

CHALLENGES:

A past City effort to investigate the potential of an accessory dwelling unit policy met significant community opposition concerning the perceived impacts of these units on individual neighborhoods, particularly with regard to parking and increased density. A new effort would require a significant investment of time in researching the potential policy and conducting community outreach. Given the potentially limited opportunities to accommodate detached accessory dwelling units in existing neighborhoods, and the potential resistance to such a policy, the return of affordable units may not warrant the expense of implementation.

Another approach that the City could consider implementing is an accessory dwelling unit policy for new construction in large development projects. This approach could facilitate the production of more units while providing an opportunity for the City to assess benefits and impacts.

LEAD PARTNERS:

Office of Housing
Department of Planning and Zoning

PROJECTED ANNUAL COST (Total):

Initial Investment: 120 to 400 Staff Hours (Policy)

Annual Operation: 40 to 120 Staff Hours (Enforcement & Administration)

REVENUE SOURCES:

Zoning Incentives (as alternate funding mechanism)
Reduced Permit Fees (as alternate funding mechanism)

**PRESERVATION****NEW DEVELOPMENT****SPECIAL NEEDS****HOMEOWNERSHIP****OUTREACH****IMPLEMENTATION SCHEDULE:**☐ Short-Term☐ Mid-Term☒ Long-Term**ACTION STEPS:****STEP 1:**

Create an accessory dwelling unit sub-committee to research ordinance provisions and policies for new construction, attached and detached accessory units. Prepare report for Planning Commission /City Council Review.

STEP 2:

Develop a series of design and implementation parameters including a clear definition and bulk standards. Potential standards include:

- Accessory dwelling unit shall be a complete housekeeping unit with a separate kitchen, sleeping area, closet, and bathroom facility.
- Principal dwelling unit must be owner occupied.
- Accessory unit shall be a maximum 800 SF or 40% of the floor area of the primary unit, whichever is less.
- There shall be no additional parking space required for the accessory unit.
- Only one accessory dwelling (within the principal unit or detached) allowed per lot.
- Deed-restriction or term of required affordability to ensure long term affordability.

STEP 3:

Prepare and adopt (PC and CC) an amendment to Zoning Ordinance, to codify the definition, bulk standards, and design requirements.



NAME:

Adaptable Housing Policy

TOOL DESCRIPTION:

Adopt a policy to encourage the use of adaptable construction techniques for all single family new construction and rehabilitation projects and all multi-family rehabilitation projects.

NEED AND BENEFIT:

Adaptable housing construction refers to incorporating design features in initial construction that allow for simple and cost efficient adaptability in the future to accommodate the changing needs of the occupants. Future adaptation requires less work at less cost than converting a non-adaptable unit into an accessible unit at a later date.

This approach is a good compromise between encouraging full accessibility and creating developments that would require costly retrofits to be adapted for a person with needs. With careful advance planning, adaptable units can be designed to flex between accessible and non-accessible market-rate units.

The State's current code requires that all new construction multi-family development (i.e. apartments and condominiums) incorporate adaptability (classified as "Type B" units). However, the code does not require it for rehabilitation of existing multi-family units or for any single family units (i.e. detached units, townhouses, row houses or duplexes).

A policy that encourages the use of adaptability standards for housing types not covered under the code signals to the development community that this is a priority for the City. Furthermore, a number of financial tools, such as tax abatements can be used to encourage developers to incorporate adaptable design into these projects. Increasing the proportion of adaptable units in the City's housing stock is the first step in providing choice for persons or families with special needs and enabling seniors to "age in place" as their needs change.

CHALLENGES:

Virginia currently does not allow the City to mandate adaptability beyond the code, limiting the level of influence the City has to ensure compliance.

LEAD PARTNERS:

Office of Housing
Department of Code Administration
Office on Human Rights
Department of Planning and Zoning

PROJECTED COST:

Initial Investment: \$1,000 to \$3,000

Annual Operation: N/A

REVENUE SOURCES:

VHDA - Accessibility Grants



PRESERVATION



NEW DEVELOPMENT



SPECIAL NEEDS



HOMEOWNERSHIP



OUTREACH



IMPLEMENTATION SCHEDULE:

☒ Short-Term

☐ Mid-Term

☐ Long-Term

ACTION STEPS:

STEP 1:

Establish a target percentage of adaptable units (100% is recommended) for all single family projects and rehabilitation of multi-family units.

STEP 2:

Develop and adopt policy prioritizing adaptability for all housing development within the City.

STEP 3:

Enact financial incentive tools detailed in the Master Plan as "carrot" for development community using enabling language that they can be utilized to encourage compliance with the Adaptable Housing Policy.

STEP 4:

Incorporate review of adaptable features inclusive of affordable housing in the code review process.



NAME:

Community Land TrustTOOL DESCRIPTION:

Establish a real property trust with the sole purpose of providing affordable housing through joint property ownership with the resident.

NEED AND BENEFIT:

A community land trust is a property trust which aims to benefit the surrounding community by ensuring the long-term availability of affordable housing. High land costs are going to be an obstacle for the City in its endeavor to preserve affordable housing. A community land trust (CLT) is a mechanism that will keep land and homes affordable to residents who may not otherwise be able to afford them.

The mechanism of a CLT is to maintain an equitable and sustainable balance between individual and community interests. The primary purpose of a CLT is to create perpetual affordability through subsidy retention. A one-time subsidy investment means there is no need to provide a subsidy each time the home is sold. CLTs can provide stability (reinvestment without gentrification), promote smart growth, preserve scarce resources, and bridge the gap between market rate homes and low income mobility. A CLT is flexible enough to combine various types of land uses, income levels and housing types to secure everyone's investment in affordable housing.

Key features of CLTs are nonprofit/tax exempt status, dual land ownership (homeowner and CLT), ground leases, perpetual affordability, active acquisition and development program, flexible development and community control. Each of the features can be varied based on the community in which the CLT operates. However, property management services should be a feature of this CLT as requested by the community.

CHALLENGES:

The greatest challenge faced by a Community Land Trust, particularly within a community like Alexandria, is acquisition of real estate. The City has both limited real estate resources and extremely high land prices. However, the Land Trust concept could be utilized in coordination with the development contribution formula, with the developer providing the real estate as part or all of its contribution. The contribution provides the Trust with real estate needed to partner on the development of new affordable housing.

IMPLEMENTATION SCHEDULE:

☐ Short-Term ☐ Mid-Term ☒ Long-Term

LEAD PARTNERS:

City of Alexandria Redevelopment and Housing Authority; CDCs with 501c3 tax exempt status; large employers with strong community presence

PROJECTED COST:

Initial Investment: \$50,000 to \$75,000

Annual Operation: \$100,000 to \$500,000**

REVENUE SOURCES:

CDBG, HOME, Tax Credits, FHLB Affordable Housing Program, Housing Trust Funds, land donations

ACTION STEPS:**STEP 1:**

Employ mechanisms to clearly define who the 'community' would be, as well as definition of a corporate structure and governance. This step also includes determining the target audience, affordability preservation and responsibility of homeowners.

STEP 2:

Determine sponsorship of CLT (community, government, nonprofit, or employer), project funding sources, and operational funding sources

STEP 3:

A strong education and awareness campaign to educate the public and private sector to remove any misconceptions that a CLT is a form of gentrification or is aimed at displacing residents.

****NOTE:** Range of annual operation depends on the type of corporate structure, governance, and sponsorship of the CLT.



NAME:

Development Fee ReliefTOOL DESCRIPTION:

Provide fee waivers and/or reductions for the development review and permits of affordable housing projects.

NEED AND BENEFIT:

The development process for projects not seeking a by-right approval can be complicated and time intensive. For developers, the more money it costs to gain the necessary approvals and permits, the more costly the housing will need to be to cover this cost. Developers really have no way of absorbing the costs other than to pass them on to the end consumer of the housing product. When developers are trying to provide decent housing options for those with the least amount of income, it is critical to minimize all development costs. Local Governments can be part of the solution for lowering housing costs if they are willing to be flexible in the way they assess their fees.

Communities like Alexandria have flexibility in developing policies for waiving and deferring various approval process fees and permitting fees in order to lower the cost of affordable housing. Some communities provide direct waivers of fees while others provide cash rebates to developers for payment of the fees.

The Consulting team recommends that the City of Alexandria adjust its fee schedule to specify the types of fee waivers and or rebates it is willing to grant developers who agree to provide a minimum threshold of affordable housing units targeted to the high priority needs in the community. If the developer is willing to provide greater affordability, then the amount of waivers, deferrals or rebates would be greater.

CHALLENGES:

There are two primary challenges to implementing this tool. First is the true financial impact this tool will have. It was noted that development fees often do not rise to a level that would substantially impact the financial performance of the project. Second, certain fees collected during the development process are used to fund the reviewing department.

While these concerns are valid, the Housing Master Plan analysis revealed that it will take a variety of tools to make affordable housing more feasible. As such, this is a visible and effective way to state that affordable housing is a priority for the community. In those cases where the fees support the operation of the Department, fee reimbursements could be used where the funds are channeled from other sources.

LEAD PARTNERS:

Department of Planning and Zoning
Department of Code Administration

PROJECTED COST:

Initial Investment: \$0 to \$5,000

Annual Operation: \$5,000 to \$150,000



PRESERVATION



NEW DEVELOPMENT



SPECIAL NEEDS



HOMEOWNERSHIP



OUTREACH

IMPLEMENTATION SCHEDULE:☒ Short-Term☐ Mid-Term☐ Long-TermREVENUE SOURCES:

City of Alexandria General Fund

Other

DISCRETE ACTION STEPS:**STEP 1:**

Prepare an itemized analysis of typical per unit costs for fees for new development and rehabilitation projects, based on information from Planning & Zoning and subsequent discussion of findings and analysis from representative from the development community.

STEP 2:

Prepare an updated analysis (P&Z) of revenue and expense projections for units which would be impacted by fee waivers and deferrals to determine whether existing budgets can absorb the decrease in revenues.

STEP 3:

Craft recommendations and qualification standards that structure how the new fee schedule should be implemented for targeted affordable housing projects. Providing rebates for fees paid could offset deficiency in City department budgets.

STEP 4:

Hold outreach meetings and public hearings on the options for adopting fee waiver/deferral policies.

STEP 5:

Prepare and adopt a final fee schedule for development fee relief for affordable housing development.



NAME:

Development/Outreach Coordinator**TOOL DESCRIPTION:**

Establish/designate a position within the Office of Housing to lead internal and external development advocacy, outreach and communications related to affordable housing

NEED AND BENEFIT:

The (re)development and rehabilitation approval processes are often difficult to navigate, particularly for projects that require a special use permit or re-zoning. While the City works with applicants to streamline and reduce the complexity of the process, there still are situations where special or technical assistance may reduce delay or conflict for both City and applicant.

The development/outreach coordinator, a staff position residing within the Office of Housing, will assist developers and applicants through the process by considering or going through the approval process by providing advisory services, with the view to maximizing the component of affordable housing to be achieved within the proposed development. To accomplish this, the ombudsman will have three roles:

Advisory – The development/outreach coordinator will be familiar with all aspects of the approval process. In consultation with the various City review entities, the development/outreach coordinator will provide insight and guidance to the applicant on potential obstacles in the submission. This staff member will be intermediary among entities to seek resolutions when issues impacting housing arise. The development/outreach coordinator may facilitate partnerships and funding strategies to support affordable housing preservation and/or development.

Outreach – The development/outreach coordinator should also participate in housing outreach. The development/outreach coordinator will provide information about, and to advocate for, affordable housing within the development community and to the public. The outreach effort will support initiative to existing affordable housing as well as increase awareness regarding the benefits and opportunities in providing new affordable housing as part of the City's economic sustainability strategy.

Communication – The development/outreach coordinator should lead the City's clearinghouse activities. Programs such as the landlord consortium could be managed through the coordinator position. If a more flexible approach to fulfilling affordable housing contributions is adopted, the development/outreach coordinator could facilitate the partnerships, joint ventures and funding strategies necessary to deliver a maximum yield.

CHALLENGES:

The largest obstacle to realizing the facilitator position is funding. Given the City's current financial situation, a more prudent short-term solution would be to reallocate these responsibilities within the existing City staff with the goal of funding a new position when the City's position improves.

**IMPLEMENTATION SCHEDULE:**

☐ Short-Term ☒ Mid-Term ☐ Long-Term

LEAD PARTNERS: Housing and City development review entities (Planning, Zoning, Code, etc.); non profit development organizations; AEDP

ESTIMATED COST:

Initial Investment: \$5,000 to \$10,000

Annual Operation: \$50,000 to \$95,000

REVENUE SOURCES:

City of Alexandria General Fund; Housing Trust Fund; fees for technical assistance

ACTION STEPS:**STEP 1:**

Establish the position description and responsibilities for the development ombudsman, including advisory, outreach and communication tasks as well as performance expectations or targets.

STEP 2:

Secure committed funding commitment for the development/outreach coordinator position which are commensurate with anticipated responsibility, qualifications and performance expectations/targets

STEP 3:

Advertise and fill the position (or reallocate from within Housing staff)

STEP 4:

Develop information, outreach and communication programs and materials; develop/augment property owner/developer databases; coordinate with civic associations on outreach efforts.

**NAME:****Energy Efficiency Improvements****TOOL DESCRIPTION:**

Provide incentives tied to making affordable housing more energy efficient

NEED AND BENEFIT:

Low and moderate income families typically live in older, less energy efficient homes. Loans to improve residential energy efficiency can be both an affordable housing preservation tool as well as an educational outreach tool. Energy efficiency improvements to older homes and apartments will not only reduce energy consumption and provide lower energy costs for homeowners and tenants, but will also improve the condition of the homes and help the City meet important community goals for reducing residential energy use. Such a program may include financing to offset the cost of retrofits, workforce training to conduct energy audits, installing energy efficient components, and a consumer education component.

The education component of this initiative can serve to dispel misconceptions about the costs and the benefits associated with energy efficiency and sustainable home improvements. The educational component can also be used to promote energy saving strategies to reduce energy consumption, and to engage the consumer in tracking their energy use to ensure that energy efficient features are performing at optimal energy levels to deliver the maximum return on investment.

CHALLENGES:

The largest challenge to implementing this tool is the creation of the education materials and implementing a comprehensive outreach effort. This tool should be incorporated under the outreach coordinator position described as part of another recommended tool.

In addition to tying in existing programs such as the home rehab efforts, the City could consider tying additional financial incentives to assist in defraying initial capital costs for the improvements. For example, The City could use providing tax abatements/rebates for improvements to units housing income-qualified individuals.

LEAD PARTNERS:

Office of Housing
Rebuilding Together Alexandria
TES
Private lending partners

PROJECTED COST:

Initial Investment: \$10,000 to \$20,000

Annual Operation: \$5,000 to \$10,000

REVENUE SOURCES:

Private financing, Energy Star Mortgages, Corporate donations of energy efficient appliances,

**PRESERVATION****NEW DEVELOPMENT****SPECIAL NEEDS****HOMEOWNERSHIP****OUTREACH****IMPLEMENTATION SCHEDULE:**
☒ Short-Term

☐ Mid-Term

☐ Long-Term
ACTION STEPS:**STEP 1:**

Develop education materials and comprehensive outreach effort to education property owners on the benefits of energy efficiency and its connection to affordable housing.

STEP 2:

Implement outreach to garner interest in participating in the energy efficiency program.

STEP 3:

Obtain utility baseline data to set benchmarks for pre-retrofit energy usage and evaluation post retrofit.

STEP 4:

Conduct pre-retrofit energy audits for existing homeowners and property owners. Assign contractors to install energy efficient components and appliances.

STEP 5:

Track monthly energy usage and complete energy analysis at six-month intervals.

NAME:

Home Purchase Assistance Loan Program Enhancements

TOOL DESCRIPTION:

Enhance the City's purchase loans program related to the acquisition of affordable housing

NEED AND BENEFIT:

The City's current Homeownership Assistance Program and Moderate Income Homeownership Program should be enhanced to provide post-purchase counseling to assist lower income homeowners to prepare for homeownership, to provide sustainable homeownership opportunities, and to create streams of revenue to allow the City to serve more qualified households.

The current program is very effective at supporting the households who have used the program, but could benefit from some modifications to the manner in which the loans are granted and recovered. The following recommendations are intended to help improve the application of the program without damaging its effectiveness.

- Loans should be made for a maximum of 30 years, with a 5-year performance review horizon to ensure the participant remains qualified for the assistance. At that time, the Office of Housing will have the option to extend the non-payment or convert the loan into a performing loan.
- In order to protect the City's Investment, the City loan should not exceed 50% of the total appraised value of the structure.
- At time of sale, the City should recover its initial investment plus its pro rata share of the appreciation rather than "discounting" the unit sale price for the next buyer. The appreciation could be used to incentivize the next buyer or be reprogrammed to a new loan.
- If an owner refinances the loan, the new loan should not exceed the owner's initial investment plus the owner's pro rata share of the appreciation.

CHALLENGES:

There is a delicate balance between providing a "hand up" and a "hand out" in terms of assisting modest-income households to obtain homeownership. The City needs to ensure all programmatic changes do not deter potential applicants from participating while protecting the City's investment and encouraging quicker reallocation of these funds to help more households. Any changes to the program should be monitored carefully and reviewed to ensure they are meeting the stated goals.



PRESERVATION



NEW DEVELOPMENT



SPECIAL NEEDS



HOMEOWNERSHIP



OUTREACH

IMPLEMENTATION SCHEDULE:☐ Short-Term☒ Mid-Term☐ Long-TermACTION STEPS:**STEP 1:**

Modify loan program policies and procedures pursuant to these recommendations and adjusted through the consideration process.

STEP 2:

Increase scope and funding to the homeownership education program, soliciting outside assistance in the financial assessment and strategy

STEP 3:

Provide initial City Investment, utilizing loan repayment, Housing Trust Fund and other funding sources to augment in future years

STEP 4:

Establish the Loan Consortium and enable it to operate and oversee the Home Purchase Loan Program

LEAD PARTNERS:

Office of Housing; Alexandria Loan Consortium

PROJECTED COST:

Initial Investment: \$500,000 to \$1,000,000

Annual Operation: Added as funds are available

REVENUE SOURCES:

CDBG, Housing Trust Funds, NSP Program Income, Loan Consortium

NAME:

Home Rehabilitation Loan Program Enhancements

TOOL DESCRIPTION:

Enhance the City's existing rehabilitation loan program related to modernizing and improving affordable housing.

NEED AND BENEFIT:

The Home Rehabilitation Loan Program should be enhanced to better allow the City to serve more households.

The current program is very effective at supporting the households who have used the program, but could benefit from some modifications to the manner in which the loans are granted and collected. The following recommendations are intended to help improve the application of the program without damaging its effectiveness.

- The Program should be expanded to offer reduced levels of assistance to households between HUD's 80% of AMI and the mathematical 80% of AMI.
- Such loans should be made for a maximum of 30 years, with a 5-year performance review horizon to ensure the participant remains qualified for the assistance. At that time, the Office of Housing will have the option to extend the non-payment or convert the loan into a performing loan.
- The Program should offer a smaller energy efficiency loan component that focuses on reducing residential energy use. Such loans can have the added value of reducing the monthly heating and cooling costs for lower income City homeowners but also helps meet established goals of Alexandria's Eco-City Action Plan.

CHALLENGES:

There is a delicate balance between providing a "hand up" and a "hand out" in terms of assisting modest-income households to obtain homeownership. The City needs to ensure all programmatic changes do not deter potential applicants from participating while protecting the City's investment and encouraging quicker reallocation of these funds to help more households. Any changes to the program should be monitored carefully and reviewed to ensure they are meeting the stated goals.

LEAD PARTNERS:

Office of Housing; TES
Planning and Zoning
Alexandria Loan Consortium

IMPLEMENTATION SCHEDULE:

☐ Short-Term ☒ Mid-Term ☐ Long-Term

ACTION STEPS:**STEP 1:**

Expand list of potential homeowners through outreach and advertisement.

STEP 2:

Modify loan program policies and procedures inclusive of rehab guidelines.

STEP 3:

Establish initial City investment into the fund, utilizing grant, Housing Trust Fund and other revenue sources to augment loan pool amount over time.

STEP 4:

Establish the Loan Consortium to operate and oversee ongoing loans for the Homeowner Rehab Loan Program.

PROJECTED COST:

Initial Investment: \$500,000 to \$1,000,000

Annual Operation: Added as funds are available

REVENUE SOURCES:

CDBG, Housing Trust Funds, NSP Program Income, Loan Consortium

**NAME:****Housing Choice Vouchers
Outreach to Landlords****TOOL DESCRIPTION:**

Assist ARHA in its efforts to promote acceptance of the Housing Choice Voucher (HCV) program by private market landlords.

NEED AND BENEFIT:

The City should continue and enhance its involvement in ARHA outreach to private landlords to promote participation in the HCV program.

CHALLENGES:

XXX

**IMPLEMENTATION SCHEDULE:**

☐ Short-Term ☒ Mid-Term ☐ Long-Term

ACTION STEPS:**STEP 1:**

Continue and enhance collaboration with ARHA in efforts and workshops to increase, maintain and educate landlord participation in the HCV program.

LEAD PARTNERS:

City of Alexandria Office of Housing
ARHA

PROJECTED COST:

Initial Investment: N/A
Annual Operation: N/A

REVENUE SOURCES:

City of Alexandria General Fund

**NAME:**

Incentive Housing District – Development (DIHD)

TOOL DESCRIPTION:

Establish an overlay district that authorizes specific incentives for new development projects providing minimum levels of affordable housing.

NEED AND BENEFIT:

Many local jurisdictions are adopting codes that promote the development affordable housing in designated growth/redevelopment areas. These areas often provide a particular set of attributes that are beneficial to modest income households, such as public transit access and proximity to personal and social services. In some cases, cities and counties are offering variations of existing policies that provide greater flexibility and/or incentives for the provision of affordable housing. Within Alexandria, this approach could apply to such policies as bonus densities, fee waivers, streamlined review processes or other incentives to encourage the development of workforce and affordable housing within a Development Incentive Housing District (DIHD).

Similar to the Preservation Incentive Housing District concept, the DIHD are geographic areas experiencing and/or are projected to experience substantial (re)development and meet certain criteria that make these areas ideal for the provision of workforce and affordable housing.

Recommended criteria defining a DIHD include:

- Areas where more than 25 units are being delivered within a ¼ mile radius.
- Areas within ½ mile of a Metro station or ¼ mile of a Dash/Metrobus stop.
- Areas where current zoning allows, encourages or promotes (re)development at a density level greater than 20% above the current use and/or underlying zoning district.
- Areas deemed “high priority” or “special case” by the Office of Housing and the City Council.

CHALLENGES:

There is a high sensitivity within the City of Alexandria on placing labels on individual neighborhoods. As such, the City should focus on establishing the criteria to determine whether a property/project qualifies for this program rather than hard geographic boundaries. In addition to removing the impact of labeling an area, the criteria approach remains flexible as market conditions, public policy (local, state and federal) and development continues to reshape the City.

**IMPLEMENTATION SCHEDULE:**

☒ Short-Term ☐ Mid-Term ☐ Long-Term

LEAD PARTNERS:

Planning and Zoning Department
City Council

PROJECTED COST:

Initial Investment: 80 to 200 Staff Hours

Annual Operation: \$N/A

REVENUE SOURCES:

N/A

ACTION STEPS:**STEP 1:**

Adopt concept through Housing Master Plan Process

Step 2:

Work with City Council, Planning Commission and Planning and Zoning to review recommended criteria and establish final criteria for implementation.

STEP 3:

Adopt policy including finalized designated criteria that will trigger the implementation of this policy to promote workforce or affordable housing.

STEP 4:

Enact language in existing and proposed (and adopted) tools to allow special application for the delivery of affordable housing within the designated DIHD area



NAME:

Mixed-Use Public Asset Policy

TOOL DESCRIPTION:

A policy requiring/encouraging the incorporation of affordable housing into appropriate existing city-owned real estate assets.

NEED AND BENEFIT:

The City has already shown that combining public uses with affordable housing can produce results. The Station at Potomac Yard has successfully combined a fire station and affordable housing with award winning results.

Building on this experience, the City should inventory and assess its real estate assets to determine the potential for following the example at The Station. All assets should be considered including built assets such as emergency service facilities (police, fire, EMT...), libraries and schools as well as undeveloped assets such as rights-of-ways and undeveloped parcels.

Once the assessment is complete, the City should seek to develop public private partnerships with development entities to (re)develop these properties to incorporate a mix of affordable housing with the existing use.

Particular sensitivities should be taken for certain asset types. For example, development at school sites could be focused towards housing for seniors.

CHALLENGES:

Not all of the City's assets are conducive for redevelopment and/or appropriate for inclusion of affordable housing as part of the site. For example, the City Hall property is not a location that merits alteration to accommodate affordable housing.

While this distinction is clear in certain cases, it is not as clear for others. The determination of "appropriate" will need to be made on a case by case basis with input from a variety of City stakeholders. To this end, a task force of the key stakeholders should be convened to review each City-held property.

LEAD PARTNERS:

Office of Housing
Planning and Zoning Department
City administration
Various City departments
Non-Profit Affordable Housing Developers

PROJECTED COST:

Initial Investment: \$20,000 to \$50,000

Annual Operation: N/A

REVENUE SOURCES:

City general funds

<input type="checkbox"/>	PRESERVATION	
<input checked="" type="checkbox"/>	NEW DEVELOPMENT	
<input checked="" type="checkbox"/>	SPECIAL NEEDS	
<input type="checkbox"/>	HOMEOWNERSHIP	
<input type="checkbox"/>	OUTREACH	

IMPLEMENTATION SCHEDULE:

☐ Short-Term ☒ Mid-Term ☐ Long-Term

ACTION STEPS:

STEP 1:

Establish stakeholder task force to review all City land holdings.

STEP 2:

Inventory all City-owned assets for the potential to be redeveloped as mixed-use properties. Properties to be considered include emergency services, libraries, schools and community facilities.

STEP 3:

Submit request for proposals to solicit a development partner to reposition these public assets with a mixture of affordable housing and the existing use.

NAME:

Parking Requirements for Substantial Rehabilitation Projects

TOOL:

Change current regulatory policy to exclude rehabilitation projects that include affordable housing from having to meet current parking ratio requirements if the rehabilitation costs exceed 33% of the existing building value.

NEED AND BENEFIT:

The City currently requires property owners seeking to rehabilitate existing developments to meet current parking codes if the cost of the renovation exceeds 33% of the current building value. This regulation creates a substantial challenge to providing affordable housing, particularly if the property being rehabilitated is an existing affordable housing development. Simply put, the policy is contrary to the City's stated mission to preserve and protect existing affordable housing.

Based on the results of the Housing Master Plan analysis, the Consultants would recommend that the policy be abandoned all together due to its potential harmful impacts on rehabilitation projects. However, for the purposes of the Housing Master Plan, the recommendation focuses on having affordable housing projects excluded from this requirement, as the data analysis indicates that more modest-income households tend to have fewer cars per unit than currently required by code.

CHALLENGES:

The biggest challenge is garnering support to reduce parking requirements. Strategic education and outreach efforts will be needed in coordination with the implementation of this tool.

LEAD PARTNERS:

Planning and Zoning Department

PROJECTED COST (per unit basis):

Initial Investment: 40 to 80 Staff Hours

Annual Operation: N/A

REVENUE SOURCES:

Zoning Incentives (as alternate funding mechanism)



PRESERVATION



NEW DEVELOPMENT



SPECIAL NEEDS



HOMEOWNERSHIP



OUTREACH

IMPLEMENTATION SCHEDULE:

☒ Short-Term

☐ Mid-Term

☐ Long-Term

ACTION STEPS:**STEP 1:**

Garner support for the exemption from the parking rehabilitation policy for affordable housing projects.

STEP 2:

Rewrite the existing policy to remove projects that provide a minimum threshold of affordable housing as part of the rehabilitation effort.

STEP 3:

Enact the policy change, continuing to work to have the overarching policy removed or substantially reduced in scope.

NAME:**Tax Abatement Policy**TOOL DESCRIPTION:

Enact a policy that provides a form of tax abatement for new development and rehabilitation of affordable housing.

NEED AND BENEFIT:

In order to keep housing affordable to priority income groups, the City will need to utilize all tools to lowering capital, operating and debt service costs. One component of the operating expense is the amount of property tax the property owner of the affordable unit must pay. Any savings on property tax expenses will help stretch the operating budget for such essentials as utilities, insurance, maintenance, etc.

Both the Virginia Code and the City Charter provide for limited waivers of property taxes for individual properties. The local government has the authority under Section 58.1-3220 to provide a tax exemption equal to the increased value of a property resulting from rehabilitation and/or redevelopment.

Some Virginia communities have created programs to provide a partial property tax exemption for rehabilitated rental properties. Based on adopted policies, a property owner who moderately improves or modernizes older properties could receive a partial exemption for up to 15 years for each unit committed to serving households earning below 50% of AMI. Applications should include:

- Income qualified homeowners making renovations and/or additions to their homes
- Property owners who serve households earning below 50% of AMI that are seeking to redevelop/rehabilitate their structure
- Property owners who will serve households earning below 50% of AMI seeking to build new housing

CHALLENGES:

Given the current fiscal and financial conditions within Alexandria, creating a policy that delays collection of new tax revenues for a determined period of time likely will draw concern from some community stakeholders. As such, the policy should be crafted in a manner that ensures any abatement/rebate is tied to a project meeting a minimum threshold for affordable housing. The Consultant recommends a sliding-scale approach that increases the abatement maximum for projects serving the most modest incomes (i.e. below 40% of AMI).

PROJECTED COST:

Initial Investment: \$0 to \$10,000 (policy)

Annual Operation: Up to \$50,000 per unit

REVENUE SOURCES:

General Fund (Indirect spending)

IMPLEMENTATION SCHEDULE:

☐ Short-Term ☒ Mid-Term ☐ Long-Term

LEAD PARTNERS:

City Administration
City Council

DISCRETE ACTION STEPS:**STEP 1:**

Alexandria Office of Housing distills low income housing priority needs from Housing Master Plan and presents findings to City Administration, City Council.

STEP 2:

Housing Office in conjunction with Real Estate Assessment Office and City administration, prepare draft policy covering various forms of property exemption/rebate options for priority affordable housing units.

STEP 3:

City Council conducts informal study sessions and formal hearings prior to adopting tax reduction policy to enhance financial stability of priority affordable housing units.

VISITABILITY DESIGN INSPECTION REPORT

NOTE: THE FIRST PAGE OF THIS REPORT WILL BE COMPLETED BY THE PROPERTY OWNER.

Parcel ID No: _____ Municipality: _____

Property Address: _____
(Street)

(City) (State) (Zip Code)

Owner Name: _____
(Last) (First) (MI)

Tax credit is requested for: _____ New Construction _____ Renovation of Existing Structure

Construction Completion Date: _____ Act 132 Application Date: _____

Building Permit Number: _____ Date Issued: _____

Occupancy Permit Number: _____ Date Issued: _____

Contractor Name: _____

Contractor Address: _____
(Street)

(City) (State) (Zip Code)

Contractor Telephone: _____ Contractor Email: _____

Building Inspection Agency: _____

Agency Address: _____
(Street)

(City) (State) (Zip Code)

Building Inspector: _____

Inspector Telephone: _____ Inspector Email: _____

I hereby certify that the statements made in this Visitability Design Inspection Report and the attached Act 132 application are true and correct to the best of my knowledge, information and belief.

Owner's Signature

Date

VISITABILITY DESIGN INSPECTION REPORT

NOTE: THIS PORTION OF THE REPORT WILL BE COMPLETED BY THE BUILDING INSPECTOR.

Directions: *The building inspection agency shall inspect and verify that the following architectural design features for a visitable home have been included in the residential dwelling for which an owner is seeking the Visitability Tax Credit per Act 132 of 2006 and County Ordinance No. 39-06 by placing a checkmark in the box of each item on this list.*

Note that the Wall Reinforcement (blocking) requirement in powder rooms and bathrooms should be verified at the time of the building inspection when the wall framing is exposed.

☐

1. Exterior Circulation Path – The path from the pedestrian site arrival point to the no-step entrance shall be firm, stable and slip resistant. The grade of the path shall fall with the following acceptable slopes: 1:8 for slope length of 5 feet or less (maximum rise 7.5 inches); 1:10 for slope length 12 feet or less (maximum rise 14.4 inches); 1:12 for slope length more than 12 feet up to 30 feet. *Exemption:* Where the average slope of the property line along and contiguous to the public right of way exceeds a slope of 1:12, the slope of the exterior circulation path may be greater, if necessary, to provide access to the no-step entry, but may not exceed the average slope of the property line.

Inspector Signature: _____ Date Inspected: _____

☐

2. Building Entrance – The residence shall provide at least one no-step entrance approachable by a firm, stable and slip-resistant circulation path with an acceptable slope. In entrances with thresholds less than 2 inches, thresholds may be beveled with a maximum slope of 1:2 to comply with this provision. Thresholds may be a maximum of 2 inches high, except in entrances from garages, where they may be a maximum of 4 inches high. In garage entrances with thresholds no greater than 4 inches, thresholds may be beveled with a maximum slope of 1:2 to comply with this provision.

Inspector Signature: _____ Date Inspected: _____

☐

3. Building Entrance Door – All no-step entry doors must have a minimum clear open width of at least 32 inches and be equipped with lever-handle hardware.

Inspector Signature: _____ Date Inspected: _____

☐

4. Interior Circulation Paths – Circulation paths into and throughout the visitable entry level floor of the dwelling must be at least 36 inches wide.

Inspector Signature: _____ Date Inspected: _____

VISITABILITY DESIGN INSPECTION REPORT

☐

5. Interior Doorways – All interior doorways on the visitable floor, excluding closets and the doorway to floors below the visitable floor, shall have a minimum clear open width of 32 inches.

Inspector Signature: _____ Date Inspected: _____

☐

6. Powder Room and Bathroom Wall Reinforcement – All bathrooms and powder rooms throughout the residential unit shall have reinforcement of at least 2-inch by 8-inch blocking between the studs placed inside the walls for easy installation of grab bars if needed. Reinforcement shall be capable of supporting grab bars that resist shear and bending forces of a minimum of 250 pounds. Blocking should be centered at 34 inches from and parallel to the finished floor. *Exemption:* In renovated homes, only the walls in powder rooms or bathrooms on the visitable floor and those on floors that have stud walls exposed as part of the renovation process need to comply with this subsection. *Note that the Wall Reinforcement (blocking) requirement in powder rooms and bathrooms should be verified at the time of the building inspection when the wall framing is exposed.*

Inspector Signature: _____ Date Inspected: _____

☐

7. Visitable Powder Room – Each housing unit shall have a minimum of 1 powder room or bathroom on the visitable entry-level floor. The powder room must have a 30-inch by 48-inch minimum clear floor space contiguous to the water closet and the lavatory. The clear space under the lavatory can be included in this measurement and clear spaces contiguous to the water closet and lavatory may overlap.

Inspector Signature: _____ Date Inspected: _____

☐

8. Plumbing Fixtures – The plumbing fixtures in the visitable powder room or bathroom and the powder room or bathroom entry doors on the visitable floor must be equipped with lever-handle hardware.

Inspector Signature: _____ Date Inspected: _____

☐

9. Light Switches – Light switches may not be higher than 48 inches above the finished floor of the residential unit. If there are two controls for the same light, only one needs to be in compliance with these standards. *Exemption:* In renovated homes, only the switches on the visitable floor must comply with this subsection, unless the electrical renovations extend beyond the visitable floor.

Inspector Signature: _____ Date Inspected: _____

Arvada, Colorado, Code of Ordinances >> PART II - CODE OF ORDINANCES >> Chapter 18 - BUILDINGS AND BUILDING REGULATIONS >> ARTICLE XIV. VISITABILITY >>

ARTICLE XIV. VISITABILITY

[Sec. 18-501. Title.](#)

[Sec. 18-502. Intent.](#)

[Sec. 18-503. Legislative declaration.](#)

[Sec. 18-504. Applicability.](#)

[Sec. 18-505. Definitions.](#)

[Sec. 18-506. Percentage of dwelling units.](#)

[Sec. 18-507. Requirements.](#)

[Sec. 18-508. Marketing.](#)

[Sec. 509. Opt-out fee.](#)

[Sec. 18-510. Procedure.](#)

[Sec. 18-511. Violations and remedy.](#)

[Sec. 18-512. Waiver and appeal.](#)

Sec. 18-501. Title.

These regulations may be known as the "Visitability Ordinance" and may be cited as such.

(Ord. No. 4309, § 15, 11-14-2011)

Sec. 18-502. Intent.

Visitability is a relaxed standard of accessibility that allows homeowners to more easily welcome guests of all abilities into their homes. In addition, homes built with visitable features often allow homeowners to remain in their homes as they age, reducing the cost of retrofit of the dwelling. The intent of this article is to further the policy of the city to provide that certain new residential construction be designed and built to provide visitability and enhanced livability for the disabled, as well as to encourage home designs that allow owners to enter and move about freely as they age.

(Ord. No. 4309, § 15, 11-14-2011)

Sec. 18-503. Legislative declaration.

The city council finds that the provisions contained herein are declared as a matter of legislative determination and public policy to be necessary to secure and promote the public health, comfort, convenience, safety, and welfare.

(Ord. No. 4309, § 15, 11-14-2011)

Sec. 18-504. Applicability.

- (a) General. The provisions of this article apply to a qualifying residential development for which a complete application for a preliminary development plan, site plan, or minor plat has been submitted on or after January 1, 2006. Exception: This article does not apply to custom homes.

- (b) Other accessibility requirements. The visitability requirements set forth in this article are in addition to the accessibility requirements set forth in the International Building Code, International Residential Code, or state or federal law. Any dwelling unit that meets the state standards for accessible housing set forth in C.R.S. §§ 9-5-101 through 9-5-106 as well as visitability requirements set forth herein may count toward the total percentage of visitable homes required by [section 18-506](#)
- (c) Conflicts. To the extent there is a conflict between any provisions of this article and the Land Development Code or any other provision of this chapter, as adopted and amended by the city, this article shall control.

(Ord. No. 4309, § 15, 11-14-2011)

Sec. 18-505. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Accessible entrance means any entrance that meets the requirements of accessibility as defined in ANSI A117.1-2003.

Accessible floor level means the visitable dwelling unit level that is served by an accessible entrance or an easily retrofitted visitable building entrance and that consists of living space that includes a bathroom.

Adaptable dwelling unit means any dwelling unit in a qualifying residential development that is pre-engineered and otherwise in accordance with [section 18-507\(b\)](#).

Commercially reasonable cost means costs that are fair, at prices current in the local market at the time the costs are incurred, and corresponding to commonly accepted commercial practices.

Custom home means a house built to individual design and individual specifications for a specific client on a specific lot and that is designed and planned to be built one time only, or a house built speculatively for sale if the design is unique, if it is built using a one-of-a-kind floor plan, and if it is designed and planned to be built one time only.

Dwelling unit means any single-family detached dwelling or two-family dwelling, as defined in article 10 of the Land Development Code.

Dwelling unit category means either single-family detached dwellings or two-family dwellings as provided in article 10 of the Land Development Code.

Dwelling unit with interior visitability features means any dwelling unit in a qualifying residential development that is built in accordance with [section 18-507\(c\)](#).

Excessive slope means that the topography of the lot exceeds 1:12 slope from the front of the lot to the back and the acceptable slope as set forth in ANSI 117.1-2003 cannot be met.

Graduated step entry or entrance means a landing or series of landings which shall have a width not less than the width of the dwelling entrance door. Landings shall have a length measured in the direction of travel of not less than 36 inches (914 mm). Landings shall be separated by no more than one stair with a riser height of no more than three inches (75 mm).

Pre-engineered means the designation of a lot as adaptable at the time the development applicant submits a building permit application for that lot, the designation of the construction option

selected for the lot, the submission of grading, drainage, engineering plans appropriate for the visitable construction option selected, all design and installation necessary to accommodate the retrofit of the dwelling unit to accommodate the construction option.

Qualifying residential development means a new residential project consisting of single-family or two-family dwellings that contains seven or more units and is situated within any one or more of the following zoning districts or subdistricts: RE, R-L, R-I, R-MD, R-M, R-NT, R-SL, or PUD zoning districts, or CC-B, NC-RB, NC-RC, NC-MU-B, or NC-MU-C zoning subdistricts.

Type A dwelling unit means a dwelling unit in a qualifying residential development designed in accordance with the provisions of ANSI A117.1-2003, Section 1003.

Type B dwelling unit means a dwelling unit in a qualifying residential development with a ground floor level designed in accordance with the provisions of ANSI 117.1-2003, Section 1004.

Visitable dwelling unit means any dwelling unit in a qualifying residential development built in accordance with [section 18-507\(a\)](#).

(Ord. No. 4309, § 15, 11-14-2011)

Sec. 18-506. Percentage of dwelling units.

- (a) Visitable or adaptable dwelling units. No fewer than 15 percent of dwelling units within each dwelling unit category within a qualifying residential development located in a qualifying residential development shall be designated, designed, and built or pre-engineered to be visitable or adaptable.
- (b) Dwelling units with interior visitability features. An additional 15 percent of dwelling units within each dwelling unit category within a qualifying residential development located in a qualifying residential development shall be designated, designed, and built with the features set forth in [section 18-507\(c\)](#) herein.

(Ord. No. 4309, § 15, 11-14-2011)

Sec. 18-507. Requirements.

- (a) Visitable dwelling units. Visitable dwelling units shall be provided with a step-free or accessible entrance on an accessible route that complies with ANSI A117.1 - 2003, and that has a maximum slope not to exceed 1:12. The building entrance doors shall have a minimum net clear opening as set forth in subsection (c) of this section. In addition, visitable dwelling units shall contain all of the interior visitability features set forth in subsection (c) of this section. The step-free or accessible entrance may be located on the front, side, or rear of the dwelling unit, or may be located through the garage.
- (b) Adaptable dwelling units. Adaptable dwelling units shall be pre-engineered to easily accommodate at a commercially reasonable cost any of the following building entrance construction options:
 - (1) A step-free building entrance that complies with the requirements set forth in subsection (a) of this section; or
 - (2) A one-step building entrance that otherwise complies with the requirements set forth in subsection (a) of this section; or
 - (3) A graduated step entry that otherwise complies with the requirements set forth in subsection (a) of this section; or
 - (4) A lift at an entrance that otherwise complies with the requirements set forth in

subsection (a) of this section.

In addition, adaptable dwelling units shall contain all of the interior visitability features set forth in subsection (c) of this section. The step-free building entrance or the entrance pre-engineered to be adaptable may be located on the front, side, or rear of the dwelling unit, or may be located through the garage.

- (c) Dwelling units with interior visitability features. Dwelling units with interior visitability features shall be provided with:
- (1) Interior doors. All interior doors on the accessible floor level of such dwelling units, except those serving closets, or serving pantries less than 15 square feet in area, within individual visitable dwelling units intended for user passage must provide a minimum net clear opening of 32 inches (813 mm) when the door is open 90 degrees, as measured between the face of the door and the opposite stop.
 - a. All interior sliding or pocket doors on the accessible floor level of such dwelling units must provide a minimum net clear opening of 32 inches (813 mm) as measured when fully open.
 - b. All interior doors on the accessible floor level of such dwelling units must be equipped with levered hardware.
 - (2) Interior hallways. All interior hallways on the accessible floor level of such dwelling units shall have a minimum width of not less than 36 inches (914 mm), be level, and provide ramped or beveled changes at door thresholds.
 - (3) Bathroom. The accessible floor level of such dwelling units shall have a sink, and be designed and constructed so those with assistive devices can enter and close the door behind them.
 - (4) Wall reinforcement. Walls of the visitable bathroom on the accessible floor level of such dwelling units shall be provided with wood blocking installed flush within wall framing to support grab bars as set forth herein. The wood blocking shall be located between 33 inches (839 mm) and 36 inches (914 mm) above the finish floor. Height shall be determined by measuring from the finish floor to the center of the wood blocking. The wood blocking shall be located in all walls adjacent to a toilet, shower stall, or bathtub.

(Ord. No. 4309, § 15, 11-14-2011)

Sec. 18-508. Marketing.

- (a) Visitable model home. At least one model home within each qualifying residential development shall be built with a step-free building entrance and all interior visitability features. This model home shall be one of the floor plans identified as appropriate for placement on an identified lot within that development.
- (b) Options list. Interior visitable features and all building entrance construction options, including a step-free entrance, shall be listed on the options list for qualifying residential developments.

(Ord. No. 4309, § 15, 11-14-2011)

Sec. 509. Opt-out fee.

- (a) Generally. In lieu of building visitable or adaptable housing stock, or building homes with interior visitability features, or building visitable model homes, a development applicant may opt to donate to the city an amount for each non-complying dwelling unit as follows:
 - (1) For each unbuilt dwelling unit with interior visitability features: \$1,000.00;
 - (2) For each unbuilt visitable or adaptable home: \$2,500.00; or

(3) For each unbuilt visitable model home: \$10,000.00.

No person shall opt out of the options list requirement set forth in [section 18-508\(b\)](#).

- (b) Use. Any opt-out fees donated to the city shall be placed in a dedicated account and shall be used only to benefit qualified persons seeking assistance to make existing city housing stock visitable or accessible.

(Ord. No. 4309, § 15, 11-14-2011)

Sec. 18-510. Procedure.

- (a) General. Every applicant submitting a preliminary development plan for a multi-year or multi-phase development shall, at the time the preliminary development plan is submitted, also submit for approval a phasing plan that outlines the applicant's intent to meet visitable homes requirements for all dwelling unit categories within the development. Every applicant submitting a final development plan for a qualifying residential development shall, at the time the final development plan is submitted, also submit a visitability plan. The visitability plan shall be part of the final development plan, shall specify how many lots will be built with visitable or adaptable dwelling units, and with dwelling units with interior visitability features, and to the extent possible, shall designate which lots will be built with such units.
- (b) Determination. The chief building official or his designee may determine at any time whether a qualifying residential development has complied with the requirements set forth herein. After making this determination, the chief building official shall notify in writing those applicants whose developments do not meet these requirements. Applicants shall have 180 days following the date of the written notice to come into compliance with the provisions of this article.
- (c) Calculation. A Type A or Type B dwelling unit built within a qualifying residential development shall count as two visitable dwelling units.

(Ord. No. 4309, § 15, 11-14-2011)

Sec. 18-511. Violations and remedy.

- (a) Unlawful acts. It shall be unlawful for a development applicant to construct, improve, use, occupy, or maintain any building or structure for which a certificate of occupancy has not been issued if that building or structure is within a qualifying residential development that is not in compliance with the requirements set forth herein.

Exception: Improvement or construction activity at a permitted dwelling unit done to bring a non-complying development into compliance shall not be unlawful.

- (b) Remedies. The denial, suspension, revocation, or restriction of any license, certificate, permit, or other privileges conferred by the city for noncompliance with this article shall be regarded as a remedy for purposes of this article. This remedy is not exclusive and the city may pursue any other remedy provided by law for a violation of the City Code.
- (c) Appeal. A decision to deny, suspend, revoke, or restrict any license, certificate, permit, or other privilege conferred by the city for noncompliance may be appealed as set forth in [section 18-36](#), except that the fee for this type of appeal shall be \$125.00.
- (1) Should an appellant successfully appeal a decision, the application fee shall be refunded to the appellant.

(Ord. No. 4309, § 15, 11-14-2011)

Sec. 18-512. Waiver and appeal.

- (a) General. The requirements of [section 18-506](#)(a) may be waived by the building official through the issuance of a "visitability waiver."
- (b) Standard. A waiver may be granted if an application demonstrates the following:
 - (1) That the number of lots having an excessive slope or other site conditions within a particular dwelling unit category make it impracticable for that category of dwelling unit to meet the requirements of [section 18-506](#)(a); or
 - (2) That the number of lots subject to property restrictions, such as easements, within a particular dwelling unit category make it impracticable for that category of dwelling unit to meet the requirements of [section 18-506](#)(a).
- (c) Application. A development applicant seeking a waiver shall file an application for the waiver with the building official at the time the grading plan is submitted, and shall include with the application all documents necessary to prove the existence of the waiver standard herein. If the application meets the waiver standard and is granted, the waiver shall constitute a waiver of all visitability requirements on that lot.
- (d) Appeal. If the building official determines that the waiver request does not meet the waiver standard herein, the development applicant may appeal the building official's denial to the city manager, who shall appoint as the hearing officer one who is not an employee of the city but who may be paid by the city subject to the requirements of subsection (1) of this section.
 - (1) Procedure. An appeal shall be submitted to the city manager within ten days of the building official's denial. At the time the appeal is submitted, the development applicant shall also furnish to the city manager a cash bond in the amount of \$1,000.00 to the effect that if the decision of building official is upheld, the development applicant shall pay all costs of conducting the hearing in this matter. Within ten days of the submission of an appeal, the building official shall forward to the city manager, or hearing officer if one has already been appointed, a record of all information and documents considered by the building official in making the decision to deny the request. The administrative hearing shall be conducted as set forth herein.
 - i. Should an appellant successfully appeal a decision, the cash bond shall be refunded to the appellant.
 - (2) Hearing. The hearing officer shall, within seven days of his appointment, send written notice to the development applicant and the building official of the date and time of a hearing on the matter. Either party may supplement the written record by submitting additional relevant evidence to the hearing officer and the other party no fewer than seven days prior to the hearing. Either party may argue the merits of the case at the hearing.
 - (3) Burden of proof. In acting on the appeal, the hearing officer shall grant to the building official's decision a presumption of correctness. The burden of proof shall be on the applicant.
 - (4) Approval criteria. An appeal shall be sustained only if the hearing officer finds that the building official erred.
 - (5) Decision. The hearing officer shall issue a written decision within 30 days of the hearing.
 - (6) Subsequent appeal. A decision of the hearing officer shall become effective on the date of the decision. An appeal of the decision may be made to the appropriate court, as provided by law.

(Ord. No. 4309, § 15, 11-14-2011)

Atlanta City Ordinance of 1992

The Atlanta City Ordinance was the first law in the United States to mandate a zero-step entrance in certain private, single-family homes. Over 600 visitable homes have been constructed under the ordinance as of 2002.

Municipal Clerk
Atlanta, Georgia

EXHIBIT A

AN ORDINANCE

BY: COUNCIL MEMBER MYRTLE DAVIS

AN ORDINANCE ADDING A NEW SECTION TO THE CITY OF ATLANTA CODE OF ORDINANCE ARTICLE F, DIVISION 3 ENTITLED: BARRIER FREE REQUIREMENTS WHERE FUNDING OR ASSISTANCE FROM PUBLIC FUNDS IS RECEIVED, PARAGRAPH 8-2182

WHEREAS, no statutory requirements presently exist on a state or local level to require that new single-family, duplex or triplex dwellings be constructed to provide accessible housing for disabled persons; and

WHEREAS, people with disabilities and their immediate families are often isolated into their own homes because the homes of most of their acquaintances contain insurmountable barriers, and often experience difficulty in finding a suitable house to rent or buy; and

WHEREAS, certain features in construction make new houses visitable, and in many cases livable, for persons with disabilities.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA, as follows:

SECTION 1: Statement of Intent.

The provisions of this ordinance are specifically enacted to further the policy of the city of Atlanta to provide that new single-family, duplexes and triplexes which are constructed with public funds, as herein described, be provided with design features to provide accessibility and usability for physically disabled people.

The purpose of this ordinance is to specially promulgate certain standards which may be less restrictive than ANSI A117.1 while economically providing solutions to accessibility.

SECTION 2: Applicability.

The following regulations shall be applicable to new, single-family dwellings, duplexes, and triplexes which receive city assistance. For purposes of this (code section) "city assistance" shall mean funding or assistance from the City of Atlanta, or any agent thereof, through any of the following means: (I) receipt of a building contract or similar contractual agreement involving any city-funded program or fund, including but not limited to the Urban Residential Finance Authority (URFA), the Housing Trust Fund, or similar programs; (ii) real estate purchased, leased or donated from the City of Atlanta or any agency thereof, (iii) receipt of preferential tax treatment, bond assistance, mortgage assistance, or similar financial advantages derived from the City of Atlanta, or any agency thereof; (iv) dispersal under city auspices of any Federal or State construction funds such as CDBG; or (v) receipt of any other funding or financial benefit from the city of Atlanta or any agency thereof.

SECTION 3: Design Requirements.

The following design requirements shall apply:

Requirement 1. Building Entrances.

Applicable dwelling units shall be designed and constructed to have at least one building entrance on an accessible route served by a ramp complying with ANSI A117.1-1986, Section 4.8, having a maximum slope not to exceed twelve (1:12), unless it is impractical to do so because of terrain or unusual characteristics of the sight. Such building entrance doors shall comply with ANSI A117.1, 4.13, and shall have a minimum clear opening of 32 inches.

Any entrance at the front, side or back of acceptable as long as it is served by an accessible route such as a garage or sidewalk.

Requirement 2. Interior door criteria.

All dwelling units, whether or not on an accessible route, shall be designed in such a manner that all the doors designed to allow passage into and within all premises are sufficiently wide to allow passage by persons in wheel chairs. Lever hardware is required.

Doors, except those serving closets less than 15 feet square in area, within individual dwelling units intended for user passage must provide minimum 32" clear opening. A 2' 10" door or standard 6' 0" sliding patio door assembly is deemed sufficient to comply with this requirement, provided however, compliance with ANSI Section 4.13.6 (Maneuvering Clearance at Doors) shall not be mandatory.

Requirement 3. accessible routes into and through the dwelling unit.

An accessible route shall be designed and constructed in such a manner that a 36" wide level route, except at doors, must be provided through the main floor of the unit with ramped or beveled changes at door thresholds.

Requirement 4. Wall reinforcement in bathroom.

Reinforcement in the walls shall be provided at designated locations as specified by ANSI A 117.1, Section 4.24, Section 4.32, figure 48 and figure 49 so that grab bars may be installed, if needed, at a later date without the necessity of removing portions of the existing wall.

Requirement 5. Light switches, electrical outlets, thermostats and other environmental controls.

All applicable dwelling units shall be designed and constructed in such a manner that all premises contain light switches, electrical outlets, thermostats and other controls in accessible locations.

Controls shall meet the requirements of ANSI A117.1, Section 4.25. Where multiple controls serve the same elements (e.g., two remote switches for a light) only one need be accessible.

Section 4: Contracts.

The provisions of this (code section) shall be incorporated in all city of Atlanta contracts.

Section 5: Waiver of Exterior Disability Accessibility Regulations.

The requirements of Section 3 Requirement 1 (Building Entrances) herein may be waived by the Commissioner of the Department of Housing or (Commissioner), through the issuance of an "Exterior Disability Accessibility Waiver" ("waiverx").

A person requesting said waiver shall file an application for disability accessibility waiver with the

Commissioner, including all documents necessary to prove the existence of the exemption standard herein. The application shall demonstrate that typographical conditions on the sight render it impossible to comply with the provisions of said section.

If the application so demonstrates, the Commissioner shall issue an Exterior Disability Accessibility Waiver to the applicant, in writing, within ten (10) days of receipt of a completed application which shall become an official component of any issued contract. The Commissioner shall retain a copy of said waiver in the Department's official records, and shall also forward a copy of said waiver to the Director of the Bureau of Buildings at the time of issuance.

Section 6:

All ordinances or parts of ordinances in conflict with this ordinance are hereby repeal to the extent of said conflict.

Section 7:

This ordinance shall become effective immediately upon approval by the Mayor or upon becoming law without approval.

ADOPTED as amended by Council June 15, 1992
APPROVED by the Mayor June 18, 1992

Signed by
Olivia P. Woods
Municipal Clerk, C.M.C.

What would we do differently?

We are sometimes asked what we would add or change if we wrote the law today.

For one thing, we would make it more explicit what entity is responsible for enforcing the ordinance. We lost the first year of enforcement through each of two city departments claiming that the other was responsible. For another, we would consider writing in that the zero-step entrance can not be eliminated from the home during the first year of occupancy. In some instances we have learned that the builder has told buyers in advance that they can remove the ramp if they don't like it, then the builder created a legal but less than ideal ramp, then shortly after moving in the homeowner removed the ramp. This of course should be illegal, but is legal under the Atlanta ordinance. Few have removed the ramps, but we believe that virtually no one would do so if they had experienced the advantages for a year. Yet even from a perspective of several years since 1992, we would weigh carefully whether to write this added requirement into the law. It might encourage a perception that ramps are undesirable, or further disturb those who feel access laws are an unfair invasion into property rights, and thus be a deal-breaker in passing the ordinance.

On the subject of ramps, we can note that many of the homes built under the ordinance do not have ramps per se, but rather have sidewalks that meet the porch without a step because the lot has been graded with this in mind. However, some of the homes have ramps, especially those in officially-designated historic districts where the foundation is required to be higher than other foundations. Many attractive ramps have been constructed.

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Concrete Change

An international effort to make *all* homes visitable!
info@concretechange.org 600 Dancing Fox Road Decatur GA 30032 USA

Designed by About Your Web Page E-mail shelaw@mindspring.com.

ORDINANCE # 12 OF 2005

Authorizing Amendment to the Code of the City of Auburn Addition of Chapter 126 Entitled Visitability Ordinance - Barrier-Free Requirements in New Construction Where Funding From Public Sources Is Received

By Councilor Dempsey

September 15, 2005

WHEREAS no statutory requirements presently exist on a state and local level to require that new, single-family, duplex and triplex dwellings be constructed to provide access for people with disabilities; and

WHEREAS people with disabilities and their families can be isolated from their own homes and the community because their homes contain physical barriers such as steps and lack of maneuverability, and some people with disabilities experience great difficulty finding integrated and accessible housing options; and

WHEREAS certain features in construction make new homes visitable and livable for persons with disabilities; now, therefore,

BE IT ORDAINED by the City Council of the City of Auburn, New York that the Code of the City of Auburn shall be amended to include the following:

Chapter 126 - Visitability Ordinance – Barrier-Free Requirements In New Construction Where Funding From Public Sources Is Received

§ 126 - 1 Purpose

The provisions of this ordinance are specifically enacted to further the policy of the City of Auburn to provide that new, single-family homes, duplexes and triplexes which are constructed with public funds, as herein described, be provided with design features to provide accessibility and usability for physically disabled people.

§ 126 - 2 Applicability

The following regulations shall be applicable to new, single-family dwellings, duplexes and triplexes which receive city, state or federal assistance.

For purposes of this Chapter, the funding includes: Community Development Block Grants (CDBG) and federal and state construction funds, and any other public funds.

§ 126 - 3 Design Requirements

In addition to the New York State Uniform Fire Prevention and Building Code as referenced in this Code, the following design requirement shall apply:

A. Building Entrances. Applicable dwelling units shall be designed and constructed to have at least one building entrance on an accessible route served by a ramp or a slope, in compliance with American National Standards Institute (ANSI) standards, with a maximum slope of 1:12, unless it is impractical due to characteristics of the terrain. This entrance should have an accessible door in accordance with ANSI. Any entrance at the front, side or back of the dwelling is acceptable.

The aforementioned requirement may be waived by the Auburn City Manager or his/her designee by issuing an “Exterior Accessibility Waiver” only in instances of site impracticability. The individual requesting such waiver shall file an application for the waiver, which will include providing proof that the topographical conditions of the building site prevent complying with the above despite proper grading and site preparation to improve accessibility. An independent party shall make verification of the site’s impracticability. A good faith attempt must be made on the part of a developer to improve accessibility of the site.

B. Interior Door Criteria. All dwelling units, whether or not on an accessible route, shall be designed in such a manner that the doors be sufficiently wide to allow passage into and within all premises by persons in wheelchairs. Lever hardware is required.

Doors, except those serving closets less than 15 square feet in area, within individual dwelling units intended for user passage must provide a minimum 32” clear opening.

C. Accessible Routes Into and Through the Dwelling Unit. An accessible route shall be designed and constructed in such manner that a 36” wide level

route, except at doors, must be provided through the main floor of the unit with ramped or beveled changes at the thresholds.

D. Wall Reinforcement in Bathrooms. Reinforcement in the walls be provided at designated locations as specified by the American National Standards Institute (ANSI) for future grab bar installation.

E. Light Switches, Electrical Controls, Thermostats and Other Environmental Controls. All applicable dwelling units shall be designed and constructed in such a manner that all premises contain light switches, electrical outlets, thermostats and other controls in accessible locations, no higher than 48” and no lower than 16” from the floor.

F. Usable first floor kitchen with wheelchair maneuvering clearance as set forth by the International Code Council (ICC)/ANSI A117.1 – 1998.

G. Usable first floor bathroom with wheelchair maneuvering clearances as set forth in ICC/ANSI A117.1 – 1998.

§ 126-4 Contracts.

The provisions of this code shall be incorporated in all City of Auburn contracts for new construction. This Chapter shall only apply to newly constructed homes as defined in Section 126-2. Conversely, this Chapter shall not apply to projects utilizing the Home Repair Assistance Program or other similar programs which give assistance for rehabilitation of existing housing.

And

BE IT FURTHER ORDAINED that this Ordinance shall take effect immediately.

Seconded by Councilor McNabb

Additions in text indicated by underlining, deletions by **bold** and in brackets [].



Basic Access Welcomes Everyone!

Texas Senate Bill 623, which took effect September 1, 1999, addresses the basic access needs of people with disabilities in the construction of single family homes.

Senate Bill 623 promotes basic access in housing design and construction by incorporating four universal design features into new construction:

- **At least one no-step entrance (may be at the front, side, back or garage entrance) with at least a standard 36-inch door**
- **Doorways throughout the home are at least a standard 32-inch door; hallways at least 36 inches**
- **Reinforced walls near the toilet and bathtub so that grab bars may be added, if needed at a later date**
- **Light switches and electrical controls no higher than 48 inches and electrical plugs are at least 15 inches above the floor and each breaker box is located inside**

Senate Bill 623 provides for these features in single family homes if federal or state money administered by the Texas Department of Housing and Community Affairs is utilized for new construction or associated down payment assistance.

United Cerebral Palsy of Texas and the Texas Home of Your Own Coalition worked during the legislative session to promote policies that increase accessible and affordable housing opportunities for people with disabilities. All people with disabilities in Texas deserve to live in barrier-free, affordable housing. All people with disabilities deserve the opportunity to visit with friends and family.

Senate Bill 623 promotes basic access in housing design and construction that:

- allows people with disabilities to visit the homes of friends and family without encountering major physical barriers;
- ensures that homes can be modified for individual accessibility needs without major structural changes; and
- keeps homes affordable.

Homes built with basic access have enormous appeal for people with and without disabilities. It welcomes friends and family who use wheelchairs, walkers, crutches or other mobility aids. Basic access allows people who experience a temporary disability or decreased mobility due to aging to stay in their home rather than face moving or making major renovations. Basic access provides greater opportunities for builders, architects, and realtors to serve a growing market.

Basic access can be achieved simply and inexpensively by incorporating four universal design features into new construction. Universal design utilizes the most basic access features that look attractive and are usable by anyone- including a person without a disability. Homes built with basic access features can and should be marketed to both people with and without disabilities.

Local City Ordinance Addresses Basic Access:

City of Austin Visitability Ordinance (**Ordinance No. 981007-A**)

Overview

New single-family dwellings, duplexes, and triplexes constructed with city assistance must be constructed using design features that provide accessibility and usability for persons with disabilities.

Definition of City Assistance

City financial assistance includes:

1. a building contract or similar contractual agreement involving a City-funded program or fund, including the Austin Housing Finance Corporation, or a similar program;
2. a real estate purchase, lease, or donation by the City or its agents;
3. preferential tax treatment, bond assistance, mortgage assistance, or similar financial advantages from the City or its agents;
4. disbursement of federal or state construction funds including CDBG; or
5. a City contract to provide funding or a financial benefit for housing.

Five Key Design Features

1. One ramp or no-step entrance on an accessible route with an entrance door that has a minimum net clear opening of 32 inches. It can be at the front, side, or back of the house.
2. First floor interior passage doors that have a minimum clear opening of at least 30 inches and lever door handle hardware.
3. At least a 36-inch wide level route through hallways and passageways throughout the first floor of the dwelling unit with ramped or beveled changes at door thresholds.
4. Reinforcement in first floor bathroom walls utilizing lateral two-inch by six-inch or larger nominal wood blocking installed flush with stud edges of walls. The centerline of the blocking must be 34 inches from and parallel to the floor.
5. First floor light switches, thermostats, and electrical panels no higher than 42 inches above the floor, receptacles at least 18 inches above the floor, and outdoor electrical panels adjacent to an accessible route with the same height requirements.

**CITY OF BALTIMORE
COUNCIL BILL 06-0415
(First Reader)**

Introduced by: Councilmembers Curran, Kraft, Young, Holton, Rawlings Blake, Conaway,
D'Adamo, Spector, Reisinger, Harris, Mitchell, Clarke, Welch

Introduced and read first time: April 24, 2006

Assigned to: Judiciary and Legislative Investigations Committee

REFERRED TO THE FOLLOWING AGENCIES: City Solicitor, Board of Municipal and Zoning
Appeals, Planning Commission, Department of Housing and Community Development,
Department of Public Works, Fire Department, Department of Transportation, Baltimore
Development Corporation

A BILL ENTITLED

1 AN ORDINANCE concerning

2 **Building Code – Visitability Requirements for**
3 **Publicly Assisted Dwellings**

4 FOR the purpose of requiring certain visitability features for dwellings newly constructed with
5 public assistance; setting certain standards for accessible entries and interior features;
6 authorizing waivers under certain circumstances; defining certain terms; providing for a
7 special effective date; and generally relating to visitability requirements for publicly assisted
8 dwellings.

9 BY repealing and reordaining, without amendment

10 Article - Zoning
11 Section(s) 1-136(c)
12 Baltimore City Revised Code
13 (Edition 2000)

14 BY repealing and reordaining, without amendment

15 Article - Building, Fire, and Related Codes
16 Section(s) 2-103 (IBC § 202.2.16.4 and .5)
17 Baltimore City Revised Code
18 (Edition 2000)

19 BY adding

20 Article - Building, Fire, and Related Codes
21 Section(s) 2-103 (IBC Chapter 34A)
22 Baltimore City Revised Code
23 (Edition 2000)

24 **Recitals**

25 No local laws currently require that new single-family dwellings be constructed to be
26 visitable by persons with disabilities.

EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.

Council Bill 06-0415

Persons with disabilities and their families are often isolated in their own homes because their homes and the homes of others contain insurmountable barriers. Making houses visitable would make it easier for families with disabilities to visit, rent, or buy a home.

Certain features in construction make new houses visitable and, in many cases, livable for persons with disabilities.

SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE, That the Laws of Baltimore City read as follows:

Baltimore City Revised Code

Article – Zoning

§ 1-136. Dwelling.

(c) *Types of dwellings.*

The following are the types of dwellings:

(1) *Attached dwelling:* a dwelling that is joined to another dwelling at 1 or more sides by an approved party wall or walls.

(2) *Detached dwelling:* a dwelling that is surrounded on all sides by yards on the same lot.

(3) *Multiple-family dwelling:* a dwelling that contains 2 or more dwelling units.

(4) *Semi-detached dwelling:* a dwelling that is:

(i) joined to another dwelling at only 1 side by an approved party wall; and

(ii) otherwise surrounded by yards on the same lot.

(5) *Single-family dwelling:* a dwelling that contains only 1 dwelling unit.

Article – Building, Fire, and Related Codes

Part II. International Building Code

§ 2-103. City modifications.

The additions, deletions, amendments, and other modifications adopted by the City are as follows:

Chapter 2 Definitions

Council Bill 06-0415

Section 202 Definitions

202.2 Supplemental definitions. Notwithstanding any different definition in the International Building Code, the following terms have the meanings given in this § 202.2.

202.2.16 Dwelling. “Dwelling” includes, but is not limited to, any one or more of the following:

202.2.16.4 1-family dwelling; single-family dwelling unit. “1-family dwelling” or “single-family dwelling unit” means a building that contains only 1 dwelling unit and is used only for that purpose.

202.2.16.5 2-family dwelling. “2-family dwelling” means a building that contains 2 dwelling units and is used only for that purpose.

CHAPTER 34A

VISITABILITY REQUIREMENTS FOR PUBLICLY ASSISTED DWELLINGS

SECTION 34A01 SCOPE

34A01.1 GENERAL. THIS CHAPTER APPLIES TO EVERY DWELLING, WHETHER DETACHED, SEMI-DETACHED, OR ATTACHED (AS THOSE TERMS ARE DEFINED IN CITY ZONING CODE § 1-136(C)), THAT:

- A. IS NEWLY CONSTRUCTED ON A VACANT LOT, AND
- B. RECEIVES FUNDING OR OTHER ASSISTANCE FROM THE CITY OR ANY CITY AGENCY (INCLUDING THE HOUSING AUTHORITY OF BALTIMORE CITY) BY ANY ONE OF THE FOLLOWING METHODS:
 1. A BUILDING CONTRACT OR SIMILAR AGREEMENT THAT INVOLVES ANY FEDERAL, STATE, OR CITY FUNDS,
 2. ACQUISITION, BY GIFT, PURCHASE, LEASE, OR OTHERWISE, OF ANY REAL PROPERTY FOR LESS THAN ITS APPRAISED VALUE, AS DETERMINED BY A CERTIFIED APPRAISER,
 3. PREFERENTIAL TAX TREATMENT, SUCH AS PAYMENTS IN LIEU OF TAXES, TAX INCREMENT FINANCING, OR SIMILAR BENEFIT,
 4. BOND PROCEEDS OR ISSUANCE ASSISTANCE, A LOAN, OR SIMILAR FINANCIAL BENEFIT,
 5. RECEIPT UNDER CITY AUTHORITY OF FEDERAL OR STATE CONSTRUCTION FUNDS, INCLUDING COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS, AND
 6. EXCEPT AS OTHERWISE SPECIFIED IN THIS SECTION, RECEIPT OF ANY OTHER FORM OF FUNDING OR FINANCIAL BENEFIT FROM THE CITY OR A CITY AGENCY.

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34A01.2 EXCLUSIONS. THIS CHAPTER DOES NOT APPLY TO:

- A. ADDITIONS TO OR REMODELINGS OF EXISTING BUILDINGS, OR
- B. NEW CONSTRUCTION FOR WHICH CITY FUNDING OR ASSISTANCE IS LIMITED TO EITHER OR BOTH:
 - 1. A PROPERTY TAX CREDIT UNDER CITY CODE ARTICLE 28, § 10-5 {"NEWLY CONSTRUCTED BUILDINGS"}, AND
 - 2. WAIVER OF A CITY LIEN ON PROPERTY WHERE THE LIEN EXCEEDS THE VALUE OF THE PROPERTY.

SECTION 34A02 ACCESSIBLE ENTRY

34A02.1 REQUIREMENTS. EVERY DWELLING THAT IS SUBJECT TO THIS CHAPTER MUST PROVIDE AT LEAST 1 ENTRANCE THAT:

- A. IS ACCESSIBLE TO, AND USABLE BY, A PERSON WITH A MOBILITY DISABILITY,
- B. DOES NOT INCLUDE STEPS,
- C. HAS A LEVEL CHANGE (INCLUDING ANY LEVEL CHANGE AT THRESHOLD) THAT DOES NOT EXCEED ½ INCH AND, IF THE LEVEL CHANGE EXCEEDS ¼ INCH, IS BEVELED, AND
- D. IS LOCATED ON A CONTINUOUS UNOBSTRUCTED PATH THAT, THROUGH THE USE AS NECESSARY OR APPROPRIATE OF CURB RAMPS, PARKING ACCESS AISLES, WALKS, RAMPS, ELEVATORS, LIFTS, AND THE LIKE:
 - 1. CONNECTS THE LOT ENTRANCE TO THE DWELLING ENTRANCE, AND
 - 2. CAN BE NEGOTIATED BY A PERSON WITH A DISABILITY WHO USES A WHEELCHAIR, BY A PERSON WITH A DISABILITY WHO DOES NOT REQUIRE USE OF A WHEELCHAIR, AND BY A PERSON WITHOUT A DISABILITY.

SECTION 34A03 ACCESSIBLE INTERIOR

34A03.1 "ENTRY LEVEL" DEFINED. IN THIS § 34A03, "ENTRY LEVEL" MEANS EVERY LEVEL AT WHICH AN ACCESSIBLE ENTRANCE IS PROVIDED UNDER § 34A02.1.

34A03.2 INTERIOR DOORS. ON EVERY ENTRY LEVEL OF THE DWELLING, EACH DOOR DESIGNED TO ALLOW PASSAGE MUST HAVE AN UNOBSTRUCTED OPENING OF AT LEAST 32 INCHES WHEN THE DOOR IS OPEN AT A 90-DEGREE ANGLE.

34A03.3 ENVIRONMENTAL CONTROLS.

34A03.3.1 "ENVIRONMENTAL CONTROL" DEFINED. IN THIS § 34A03.3, "ENVIRONMENTAL CONTROL" MEANS ANY SWITCH OR DEVICE THAT CONTROLS OR REGULATES LIGHTS, TEMPERATURE, FUSES, FANS, DOORS, SECURITY SYSTEMS, OR SIMILAR FEATURE FEATURES INCLUDED IN THE CONSTRUCTION OF THE DWELLING UNIT.

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34A03.3.2 REQUIREMENTS. ON EVERY ENTRY LEVEL OF THE DWELLING, EACH ENVIRONMENTAL CONTROL MUST BE LOCATED:

- A. NO HIGHER THAN 48 INCHES ABOVE THE FLOOR AND NO LOWER THAN 15 INCHES ABOVE THE FLOOR, AND
- B. IF AN ENVIRONMENTAL CONTROL IS LOCATED DIRECTLY ABOVE A COUNTER, SINK, OR APPLIANCE, NO HIGHER THAN 3 INCHES ABOVE THE COUNTER, SINK, OR APPLIANCE.

34A03.4 HABITABLE SPACE. EVERY ENTRY LEVEL OF THE DWELLING MUST CONTAIN AT LEAST 1 INTERIOR ROOM THAT:

- A. HAS AN AREA OF NOT LESS THAN 70 SQ. FT., AND
- B. CONTAINS NO SIDE OR DIMENSION NARROWER THAN 7 FEET.

34A03.5 BATHROOM. EVERY ENTRY LEVEL OF THE DWELLING MUST CONTAIN AT LEAST 1 BATHROOM THAT CONTAINS:

- A. A TOILET,
- B. A SINK,
- C. REINFORCED WALLS AT THE TOILET, TO ALLOW FOR FUTURE INSTALLATION OF GRAB BARS, AND
- D. AT LEAST 30-BY-48 INCHES OF CLEAR FLOOR SPACE UNOBSTRUCTED BY THE DOOR SWING, SO THAT A PERSON IN A WHEELCHAIR CAN ENTER THE ROOM, CLOSE THE DOOR, USE THE FIXTURES, AND EXIT.

SECTION 34A04 WAIVERS

34A04.1 GENERAL. THE BUILDING OFFICIAL MAY GRANT A WAIVER FROM ONE OR MORE OF THE REQUIREMENTS OF THIS CHAPTER IF:

- A. THE COST OF GRADING THE TERRAIN TO MEET THE REQUIREMENT IS DISPROPORTIONATELY EXPENSIVE IN RELATION TO THE VALUE OF THE DWELLING,
- B. THE WIDTH OF THE LOT IS LESS THAN 16 FEET, OR
- C. COMPLIANCE WITH THE REQUIREMENT IS PRECLUDED OR LIMITED BECAUSE OF THE LOT'S LOCATION IN A FEDERAL, STATE, OR CITY HISTORIC DISTRICT.

SECTION 2. AND BE IT FURTHER ORDAINED, That the catchlines contained in this Ordinance are not law and may not be considered to have been enacted as a part of this or any prior Ordinance.

SECTION 3. AND BE IT FURTHER ORDAINED, That this Ordinance does not apply to any dwelling for which an Occupancy Permit is issued within 1 year after the enactment of this Ordinance.

Council Bill 06-0415

1 **SECTION 4. AND BE IT FURTHER ORDAINED,** That this Ordinance takes effect on the date it
2 is enacted.

OCT09WMM.01

RECOMMENDED BY: Miriam Witherspoon, Council President Pro Tem

SUBMITTED BY: Michael Melton, Assistant City Attorney

ORDINANCE NO. _____

An Ordinance requiring all newly constructed, federally and/or City assisted, single-family houses and town houses to meet minimum standards of visitability for persons with disabilities.

SECTION 1. SHORT TITLE.

This Ordinance may be cited as the Inclusive Home Design Ordinance of 2007.

SECTION 2. DEFINITIONS.

As used in this Act:

- (1) ACCESSIBLE ROUTE – The term ‘accessible route’ means a continuous unobstructed path that:
 - (A) can be negotiated by a person with a disability using a wheelchair; and
 - (B) is safe for and usable by people with other disabilities and people without disabilities.
- (2) COVERED DWELLING UNIT – The term ‘covered dwelling unit’ means a dwelling unit that --
 - (A) is a detached single family house, a townhouse or multi-level dwelling unit (whether detached or attached to other units or structures), or a ground-floor unit in a building of three or fewer dwelling units;
 - (B) is designed as, or intended for occupancy as, a residence;
 - (C) was designed, constructed, or commissioned, contracted or otherwise arranged for design or construction, by any person or entity who at any time during the design or construction, received federal and/or municipal financial assistance for any program or activity; and
 - (D) is made available for first occupancy after the expiration of the one-year period beginning on the date of the enactment of this Ordinance.

- (3) ENVIRONMENTAL CONTROLS - The term 'environmental controls' means, for a dwelling unit, any switches or devices that control or regulate lights, temperature, fans, doors, security system features, or any other feature included in the new construction of the unit.
- (4) FEDERAL and/or CITY FINANCIAL ASSISTANCE- The term 'Federal and/or City financial assistance' means—

(A) Any assistance that is provided or otherwise made available by the Secretary of Housing and Urban Development or the Secretary of Veterans Affairs, or any program or activity of such agencies, through any grant, loan, contract, or any other arrangement, after the expiration of the one-year period beginning on the date of the enactment of this Ordinance, including—

- (i) grants, subsidies, or any other funds;
 - (ii) services of Federal and/or City personnel;
 - (iii) real or personal property or any interest in or use of such property, including—
 - (I) transfers or leases of the property for less than the fair market value or for reduced consideration; and
 - (II) proceeds from a subsequent transfer or lease of the property if the Federal and/or City share of its fair market value is not returned to the Federal Government or City of Birmingham;
 - (iv) any tax credit, mortgage or loan guarantee or insurance; and
 - (v) community development funds in the form of obligations guaranteed under section 108 of the Housing and Community Development Act of 1974 (42 U.S.C. 5308); or
- (B) any assistance that is provided or otherwise made available by the Secretary of Agriculture under title V of the Housing Act of 1949 (42 U.S.C. 1471 et seq.)

- (5) PERSON OR ENTITY -The term 'person or entity' includes one or more individuals, corporations (including not-for-profit corporations), partnerships, associations, labor organizations, legal representatives, mutual corporations, joint-stock companies, trusts, unincorporated associations, trustees, trustees in cases in Title 11 of the United States Code, receivers, and fiduciaries.

SECTION 3. VISITABILITY REQUIREMENT.

It shall be unlawful for any person referred to in section 2(2)(C), 2(4)(A), and 2(4)(B) with respect to a covered dwelling unit to fail to ensure that such dwelling unit contains at least one level that complies with the following requirements:

1. ACCESSIBLE ENTRANCE

- (A) IN GENERAL – Except as provided in subparagraph (B), the level shall contain at least one entrance to the dwelling unit that –
- (i) is accessible to, and usable by, people with disabilities such that all rooms on the level are connected by an accessible route;
 - (ii) does not contain any steps or any door threshold that exceeds one-half inch in height; and
 - (iii) is located on a continuous unobstructed path from the public street or driveway that serves the unit, which path –
 - (I) at no point has a slope exceeding one inch in rise for every 12 inches in length;
 - (II) has a width of not less than 36 inches;
 - (III) has a cross slope not greater than two percent of the width;
 - (IV) is an accessible route; and
 - (V) may include curb ramps, parking access aisles, walks, and ramps.

(B) EXCEPTIONS – The provisions of clause (ii) and (iii) of subparagraph (A) shall not apply to a covered dwelling unit if –

- (i) the finished grade of the site is too steep to provide a path having a slope meeting the requirements of subclause (I) of subparagraph (A) (ii) at the front, side, or back of the unit; there is no driveway serving the unit; and
- (ii) there is no alley or other roadway capable of providing vehicular access to the rear of the unit.
- (iii)

2. ACCESSIBLE INTERIOR DOORS – All doors that are designed to allow passage within the level shall have an unobstructed opening of at least 36 inches when the door is open at a 90-degree angle.

3. ACCESSIBLE ENVIRONMENTAL CONTROLS – All environmental controls located on the level shall be located on the wall –

(A) at least 15 inches, but not more than 48 inches, above the floor; or

- (B) in the case of environmental controls located directly above a counter, sink, or appliance, not more than three inches above such counter, sink, or appliance.

4. ACCESSIBLE HABITABLE SPACE AND BATHROOM – The level shall contain the following:

(A)HABITABLE SPACE – At least one indoor room that has an area of not less than 70 square feet and contains no side or dimension narrower than seven feet.

(B)BATHROOM – At least one bathroom that contains, at a minimum, the following:

- (i) CLEAR FLOOR SPACE – Clear floor space of 30 by 48 inches centered on and contiguous to the sink, which is not encroached by the swing path of the bathroom door.
- (ii) ACCESSIBLE SINK AND TOILET – A sink and a toilet that each allow for a parallel or head-on approach by a person in a wheelchair.
- (iii) REINFORCED WALLS – Walls that are reinforced to be capable of supporting grab bars that resist shear and bending forces of a minimum of 250 pounds, as follows:

(I) All walls adjacent to the toilet shall have horizontal backing reinforcements, each at least 33 inches, but not more than 36 inches, above the floor, and sufficient to allow for a 24-inch grab bar on the wall behind the toilet and another 42-inch grab bar.

(II) If a bathtub is present in the bathroom, such reinforcements shall include (aa) two backing reinforcements on the back wall of the bathtub, each at least 24 inches long and not more than 24 inches from the head end wall and not more than 12 inches from the foot end wall, one in a horizontal position at least 33 inches, but not more than 36 inches, above the floor, and one 9 inches above the rim of the bathtub, (bb) one backing reinforcement on the foot end wall of the bathtub, at least 24 inches long and located at the front edge of the bathtub, and (cc) one backing reinforcement on the head end wall of the bathtub, at least 12 inches long and located at the front edge of the bathtub.

(III) If a shower is present in the bathroom, such reinforcements shall include backing reinforcements on at least two walls on which the control valve is not

located, each at least 33 inches, but not more than 36 inches, above the floor.

SECTION 4. ENFORCEMENT.

- (a) **REQUIREMENT FOR FEDERAL and/or City FINANCIAL ASSISTANCE** – Each applicant for Federal and/or City financial assistance shall submit an assurance to the City Housing Department for such assistance that all of its programs and activities will be conducted in compliance with this Ordinance.
- (b) **APPROVAL OF ARCHITECTURAL AND CONSTRUCTION PLANS.**
 - (1) **SUBMISSION**- Any applicant for or recipient of Federal and/or City financial assistance who designs, constructs, or commissions, contracts, or otherwise arranges for design or construction of a covered dwelling unit shall submit architectural and construction plans for such unit to the State or local department or agency that is responsible, under applicable State or local law, for the review and approval of construction plans for compliance with generally applicable building codes or requirements (in this subsection referred to as the 'appropriate State or local agency').
 - (2) **DETERMINATION OF COMPLIANCE.**
 - (A) **CONDITION OF FEDERAL and/or CITY HOUSING ASSISTANCE** – The Mayor of Birmingham may not provide any Federal and/or City financial assistance under any program administered by the City (or any agency thereof, including the HABD) unless the appropriate State or local agency thereof is, in the determination of the Mayor, taking the enforcement actions under subparagraph (B).
 - (B) **ENFORCEMENT ACTIONS** – The enforcement actions under this subparagraph are –
 - (i) reviewing any plans for a covered dwelling unit submitted pursuant to paragraph (1) and approving or disapproving such plans based upon compliance of the dwelling unit with the requirements of this Ordinance; and
 - (ii) consistent with applicable State or local laws and procedures, withholding final approval of construction or occupancy of a covered dwelling unit unless and until such compliance is determined.
- (c) **CIVIL ACTION FOR PRIVATE PERSONS** – Any person aggrieved by an act or omission that is unlawful under this Ordinance may commence a civil action in appropriate United States District Court or State court against any person or entity responsible for any part of the design or construction of a covered dwelling unit

no later than two years after the occurrence or termination of the alleged unlawful conduct under this Ordinance. For purposes of this section, a violation involving a covered dwelling unit that is not designed or constructed in conformity with the requirements of this Ordinance shall not be considered to terminate until the violation is corrected.

(D) **ENFORCEMENT BY CITY ATTORNEY** – Whenever the City Attorney has reasonable cause to believe that any person or group of persons has violated this Ordinance, the City Attorney may commence a civil action in any appropriate court. The City Attorney may also, upon timely application, intervene in any civil action brought under subsection (c) by a private person if the City Attorney certifies that the case is of general public importance.

(E) **RELIEF**- In any civil action brought under this section, if the court finds that a violation of this ordinance has occurred or is about to occur, it may award to the plaintiff actual and punitive damages, and subject to subsection (g), may grant as relief, as the court finds appropriate, any permanent or temporary injunction, temporary restraining order, or other order (including an order enjoining the defendant from violating the Ordinance or ordering such affirmative action as may be appropriate).

(F) **ATTORNEY'S FEES** – In any civil action brought under this section, the court, in its discretion, may allow the prevailing party, a reasonable attorney's fee and costs.

(G) **EFFECT ON CERTAIN SALES, ENCUMBRANCES, AND RENTALS**- Relief granted under this section shall not affect any contract, sale, encumbrance, or lease consummated before the granting of such relief and involving a bona fide purchaser, encumbrancer, or tenant, without actual notice of a civil action under this title.

SECTION 5. EFFECT ON STATE LAWS.

Nothing in this Ordinance shall be construed to invalidate or limit any law of a State or political subdivision of a State, or of any other jurisdiction in which this Ordinance shall be effective, that grants, guarantees, or provides the same rights, protections, and requirements as are provided by this Ordinance, but any law of a State, a political subdivision thereof, or other such jurisdiction that purports to require or permit any action that would violate this Ordinance shall to that extent be invalid.

SECTION 6. DISCLAIMER OF PREEMPTIVE EFFECT ON OTHER ACTS.

Nothing in this Ordinance shall limit any right, procedure, or remedy available under the Constitution or any other Act of the Congress.

SECTION 7. SEVERABILITY OF PROVISIONS.

If any provision of this Ordinance of the application thereof to any person or circumstances is held invalid, the remainder of the Ordinance and the application of the provision to other persons not similarly situated shall not be affected thereby.

Bolingbrook Sun, June 27, 2003

Bolingbrook mandates handicapped-accessible homes

By Lauren B. Kraft

staff writer

Making homes accessible to the handicapped is now a requirement for new homes in Bolingbrook.

The village had previously only strongly recommended to developers that they follow standards to make homes accessible when building in the village.

Standards include making doorways 36 inches wide, having at least one entrance with a ramp, reinforcing bathroom walls, lowering light switches and raising electrical outlets. The standards also are set up to make it easy to later tailor the home for those in wheelchairs.

Through the work of local activist Edward Bannister, the village will by the end of the year have about 3,000 homes built with these standards, according to officials.

Bannister has prodded the village for the past three years to change home-building requirements.

Mayor Roger Claar said Bannister and others have helped "snap the village to attention" on the issue of accessibility.

The village did not want to "impose" on home builders, Claar said. But this is the time to make the informal agreement between developers and the village into a law.

"It's been very good for the village," Claar said.

Bannister called Claar and the Village Board "forwarding thinking" and "progressive."

Though larger cities have adopted similar ordinances, Bolingbrook is the first village in Illinois — and one of the first in the country — to make accessibility into the home a requirement for all new single-family houses.

Naperville, for example, recently adopted ordinances mandating lowered light switches and electrical outlets, wider first-floor doorways and reinforced bathroom walls to allow for easier future installation of grab bars, but stopped short of requiring at least one step-free entrance into the house.

Bolingbrook's new regulations improve the quality of life for people who are disabled, making the homes easier to live in and to visit, Bannister said.

It also makes it easier for people who become disabled after they buy a house.

"It's not just for people today," Claar said.

Contact staff writer Lauren B. Kraft at lkraft@scn1.com or (815) 439-4348.

06/27/03

ORDINANCE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO:

SECTION 1. The Municipal Code of Chicago is hereby amended by inserting a new Chapter 18-11, as follows:

Chapter 18-11 – Accessibility

18-11-1101	GENERAL	18-11-1105.1.10	Other entrances
18-11-1101.1	Scope	18-11-1105.2	Dwelling units
18-11-1101.1.1	Applicability	18-11-1105.3	Medical care facilities
18-11-1101.1.2	Other laws	18-11-1105.4	Automatic doors
18-11-1101.2	Referenced standards	18-11-1106	PARKING AND PASSENGER LOADING FACILITIES
18-11-1101.3	Design	18-11-1106.1	Required
18-11-1101.3.1	Modifications to ICC/ANSI A117.1	18-11-1106.2	Residential occupancies
18-11-1102	DEFINITIONS	18-11-1106.3	Medical facilities
18-11-1102.1	General	18-11-1106.3.1	Outpatient facilities
18-11-1103	SCOPING REQUIREMENTS	18-11-1106.3.2	Rehabilitation facilities and outpatient physical therapy facilities
18-11-1103.1	Where required	18-11-1106.4	Vertical clearance for vans
18-11-1103.1.1	Connected buildings	18-11-1106.5	Location and dispersion
18-11-1103.1.2	Spaces used for different purposes	18-11-1106.6	Passenger loading zones
18-11-1103.2	General exceptions	18-11-1106.6.1	Medical facilities
18-11-1103.2.1	Specific requirements	18-11-1106.6.2	Valet parking
18-11-1103.2.2	Existing buildings	18-11-1107	DWELLING UNITS AND SLEEPING UNITS
18-11-1103.2.3	Work areas	18-11-1107.1	General
18-11-1103.2.4	Detached dwellings and townhouses	18-11-1107.2	Design
18-11-1103.2.5	Utility buildings	18-11-1107.2.1	Accessible units
18-11-1103.2.6	Construction sites	18-11-1107.2.2	Type A units
18-11-1103.2.7	Raised areas	18-11-1107.2.3	Type B units
18-11-1103.2.8	Limited access spaces	18-11-1107.2.4	Visitable units
18-11-1103.2.9	Equipment spaces	18-11-1107.2.5	Townhouses
18-11-1103.2.10	Single occupant structures	18-11-1107.3	Accessible spaces
18-11-1103.2.11	Residential occupancy	18-11-1107.4	Accessible route
18-11-1103.2.12	Day care facilities and business occupancies in a dwelling unit	18-11-1107.5	Institutional occupancies
18-11-1103.2.13	Fuel-dispensing systems	18-11-1107.5.1	Sheltered care facilities
18-11-1103.2.14	Recreation facilities	18-11-1107.5.2	Nursing homes
18-11-1104	ACCESSIBLE ROUTE	18-11-1107.5.3	Hospitals
18-11-1104.1	Site arrival points	18-11-1107.5.4	Rehabilitation facilities
18-11-1104.2	Within a site	18-11-1107.5.5	Residential restrained care facilities
18-11-1104.3	Connected spaces	18-11-1107.5.6	Outpatient medical care facilities
18-11-1104.4	Multilevel buildings and facilities	18-11-1107.6	Residential occupancies
18-11-1104.5	Location	18-11-1107.6.1	Hotels, motels and similar occupancies
18-11-1104.6	Protruding objects	18-11-1107.6.2	Multiple dwellings
18-11-1104.6.1	Protrusion limits	18-11-1107.6.3	Townhouses
18-11-1104.6.2	Free-standing objects	18-11-1107.6.4	Planned developments
18-11-1104.6.3	Reduced vertical clearance	18-11-1107.6.5	Housing owned or financed by a governmental unit
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18-11-1105.1.1	Public entrances	18-11-1107.7.1	Buildings without elevator service
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18-11-1105.1.3	Parking structure entrances	18-11-1107.7.3	Elevator service to the lowest story with units
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18-11-1118HISTORIC BUILDINGS

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18-11-1101 GENERAL

18-11-1101.1 Scope. The provisions of this chapter shall control the design and construction of facilities for accessibility to people with disabilities.

18-11-1101.1.1 Applicability. The provisions in this chapter are generally applicable to new construction. Sections 1117 and 1118 establish the extent to which these provisions apply to existing buildings.

18-11-1101.1.2 Other laws. The provisions of this chapter shall not be deemed to nullify any provisions of other local, state or federal laws.

18-11-1101.1.3 Regulations. The Commissioner of the Mayor's Office for People with Disabilities shall have the authority to promulgate rules and

regulations necessary to implement the requirements of this chapter.

18-11-1101.2 Referenced standards. The standards referenced in this chapter and listed herein shall be considered part of the requirements of this chapter to the prescribed extent of each such reference. If differences occur between provisions of this chapter and referenced standards, the provisions of this chapter shall apply.

ICC/ANSI A117.1-1998

ASTM F 1292-1999

ASTM F 1487-1998

ASTM F 1951-1999

NFPA 13-1999

NFPA 13R-1999

NFPA 72-1999

18-11-1101.3 Design. Buildings and facilities shall be designed and constructed to be accessible in accordance with this code and ICC/ANSI A117.1.

18-11-1101.3.1 Modifications to ICC/ANSI A117.1. The provisions of ICC/ANSI A117.1 are adopted by reference as set forth in Section 18-11-1101.3 and shall apply with the following modifications.

- 106.5 (Defined Terms). Add definition: "Children's Use. Spaces and elements specifically designed for use primarily by people, 12 years old and younger."
- 302.1 (Floor or Ground Surfaces). Add exceptions to read: "1. This section shall not apply within an area of sport activity."
"2. Animal containment areas designed and constructed for public use shall not be required to comply with this section or with Section 303."
- 404.2.9 (Door Opening Force). Add item 3 to read: "3. Exterior hinged door: 8.5 pounds (37 N)."
- 404.3.7 (Automatic doors). Add the following: "Automatic revolving doors, automatic revolving gates and automatic revolving turnstiles shall not be part of an accessible route."
- 502.2 (Parking spaces). Change the parking space width from 96 inches (2438 mm) minimum to 132 inches (3353 mm) minimum.
- 502.3.1 (Parking access aisle width). Revise to read: "Access aisles shall be 60 inches (1524 mm) wide minimum. Access aisles serving diagonal parking spaces shall be located at the passenger side of the parking space served,

based on the vehicle moving forward into the space.”

7. 602.2 (Drinking fountains). Delete 602.2, 602.2.1 and 602.2.2 and replace with the following:

“602.2 Clear Floor Space. Units shall have a clear floor or ground space complying with Section 305 positioned for a forward approach and centered on the unit. Knee and toe space complying with Section 306 shall be provided.

Exception: A parallel approach complying with Section 305 shall be permitted at units for children’s use if the spout is 30 inches (762 mm) maximum above the finish floor or ground and is 3½ inches (89 mm) maximum from the front edge of the unit, including bumpers.”

8. 604 (Water closets and toilet compartments). Revise as follows:

604.1 (General). Add exception: “Exception: Water closets and toilet compartments for children’s use may comply with Section 604.9.”

604.8.1.1 (Size). Add the following: “Wheelchair accessible compartments for children’s use shall be 60 inches (1524 mm) wide minimum measured perpendicular to the side wall, and 59 inches (1500 mm) deep minimum for wall hung and floor mounted water closets measured perpendicular to the rear wall.”

604.8.1.4 (Toe Clearance). Add the following to the main paragraph: “Compartments for children’s use shall provide a toe clearance of 12 inches (305 mm) minimum above the finish floor.” Add the following to the exception: “Toe clearance at the front partition is not required in a compartment for children’s use if the compartment is greater than 65 inches (1651 mm) deep.”

Add new subsections as follows:

604.9 Water Closets and Toilet Compartments for Children’s Use. Water closets and toilet compartments for children’s use shall comply with Sections 604.9.1 through 604.9.7.

604.9.1 Location. The water closet shall be located with a wall or partition to the rear and to one side. The centerline of the water closet shall be 12 inches (305 mm) minimum to 18 inches (457 mm) maximum from the side wall or partition,

except that the water closet shall be centered in the ambulatory accessible toilet compartment specified in Section 604.8.2. Compartments shall be arranged for either left-hand or right-hand approach to the water closet.

604.9.2 Clear Floor Space. Clearance around the water closet shall comply with Section 604.3.

604.9.3 Height. The height of water closets above the finish floor shall be 11 inches (279 mm) minimum to 17 inches (432 mm) maximum measured to the top of the toilet seat. Seats shall not be sprung to return to a lifted position.

604.9.4 Grab Bars. Grab bars for water closets shall comply with Section 604.5.

604.9.5 Flush Controls. Flush controls shall be hand operated or automatic. Hand operated flush controls shall comply with Sections 309.2 and 309.4 and shall be installed 36 inches (914 mm) maximum above the finish floor.

604.9.6 Dispensers. Toilet paper dispensers shall comply with Section 309.4 and shall be 7 inches (178 mm) minimum and 9 inches (229 mm) maximum in front of the water closet. The outlet of the dispenser shall be 14 inches (356 mm) minimum and 19 inches (483 mm) maximum above the finish floor. There shall be a clearance of 1½ inches (38 mm) minimum below the grab bar. Dispensers shall be of a type that do not control delivery or allow continuous paper flow.

604.9.7 Toilet Compartments. Toilet compartments shall comply with Section 604.8.

9. 606 (Lavatories). Revise as follows:

606.2 (Clear Floor or Ground Space). Add two exceptions: “3. A knee clearance of 24 inches (610 mm) minimum above the finish floor or ground shall be permitted at lavatories and sinks used primarily by children ages 6 through 12 years if the rim or counter surface is 31 inches (787 mm) maximum above the finish floor or ground,” and “4. A parallel approach complying with Section 305 shall be permitted at lavatories and sinks used primarily by children ages 5 years and younger.”

606.3 (Height and Clearances). Add the following: "A clearance of 29 inches (737 mm) minimum shall be provided above the finished floor to the bottom of the apron."

10. 803 (Dressing, fitting and locker rooms). Add the following: "803.4 Mirror. If mirrors are provided in dressing rooms of the same use, accessible dressing rooms shall be provided with a full-length mirror measuring 18 inches (457 mm) wide minimum by 54 inches (1372 mm) high minimum mounted in a position to afford a view to a person on the bench and to a person in a standing position."

11. 609.2 (Grab bars). Revise as follows:

609.2.1 and 609.2.2 (Cross section). Change the maximum grab bar diameter from 2 inches (51 mm) maximum to 1½ inch (38 mm) maximum.

609.4 (Position of grab bars). Add an exception: "2. At water closets for children's use complying with Section 604.9, grab bars shall be mounted in a horizontal position 18 inches (457 mm) minimum to 27 inches (686 mm) maximum above the finish floor measured to the top of the gripping surface."

12. 902 (Dining and work surfaces). Revise as follows:

902.1 (General). Add an exception: "Exception: Dining surfaces and work surfaces for children's use shall comply with Section 902.4."

Add new subsections:

"902.4 Dining Surfaces and Work Surfaces for Children's Use. Accessible dining surfaces and work surfaces for children's use shall comply with Sections 902.4.1 and 902.4.2.

Exception: Dining surfaces and work surfaces that are used primarily by children ages 5 years and younger shall not be required to comply with Section 902.4 if a clear floor or ground space complying with Section 305 positioned for a parallel approach is provided.

902.4.1 Clear Floor or Ground Space. A clear floor or ground space complying with Section 305 positioned for forward approach shall be provided. Knee and toe clearance complying with Section 306 shall be provided, except that knee clearance 24 inches (610 mm) minimum

above the finish floor or ground shall be permitted.

904.4.2 Height. The tops of tables and counters shall be 26 inches (660 mm) minimum and 30 inches (762 mm) maximum above the finish floor or ground."

13. 903.3 (Benches). Change to read: "Bench seats shall be 24 inches (610 mm) wide maximum by 48 inches (1219 mm) long minimum and shall be fixed to a wall along the longer dimension."

14. 905.2 (Storage). Add the following: "Accessible medicine cabinets in toilet, bathing and shower rooms shall have a usable shelf no higher than 44 inches (1118 mm) above the required clear floor space."

15. 1002.11.5 (Water closets – Type A Dwelling Units). Add the following: "Toilet paper dispensers shall comply with Section 604.7."

16. 1002.12.3.2 (Work surface height – Type A Dwelling Units). Change the dimensions in the exception from 29 inches (737 mm) minimum and 36 inches (914 mm) maximum to 28 inches (711 mm) minimum and 36 inches (914 mm) maximum.

17. 1002.12.6.5 (Ovens – Type A Dwelling Units). Add the following: "Side opening ovens shall have a pull-out shelf under the oven extending the full width of the oven and pulling out not less than 10 inches (254 mm) when fully extended."

18. 1003.4.2 (Thresholds – Type B units). Revise the exception to read: "If exterior deck, patio or balcony surface materials are impervious, the finished exterior impervious surface shall be 4 inches (102 mm) maximum below the top of the swinging door threshold or sliding door track."

18-11-1102 DEFINITIONS

18-11-1102.1 General. For the purposes of this chapter and as used elsewhere in this code, the following words and terms shall have the meanings shown herein:

ACCESSIBLE. A site, building, facility or portion thereof that complies with this chapter.

ACCESSIBLE MEANS OF EGRESS. A continuous and unobstructed way of egress travel from any point in a building or facility that provides an accessible route to an area of refuge, a horizontal exit or a public way.

ACCESSIBLE ROUTE. A continuous, unobstructed path that complies with this chapter.

ACCESSIBLE UNIT. A dwelling unit or sleeping unit that complies with this chapter and Chapters 1 through 9 of ICC/ANSI A117.1.

ADAPTABILITY or ADAPTATION. The ability of certain building spaces and elements to be added or altered so as to accommodate the needs of people with or without disabilities, or to accommodate the needs of people with different types or degrees of disability. As used in this chapter, the term refers to the features of a dwelling unit that can be converted with minimal structural change for use by people with different types or degrees of disability.

ALTERATION – LEVEL 1. Level 1 alterations include the removal and replacement or the covering of existing materials, elements, equipment or fixtures, using new materials, elements, equipment or fixtures that serve the same purpose.

ALTERATION – LEVEL 2. Level 2 alterations include the reconfiguration of space, the addition to or elimination of any door or window, the reconfiguration or extension of any system or the installation of any additional equipment.

ALTERATION – LEVEL 3. Level 3 alterations include those where the work area exceeds 50 percent of the aggregate area of the building.

AMUSEMENT ATTRACTION. Any facility or portion of a facility located within an amusement park or theme park which provides amusement without the use of an amusement device. Examples include, but are not limited to, fun houses, barrels and other attractions without seats.

CFR. Code of Federal Regulations.

CIRCULATION PATH. An exterior or interior way of passage provided for pedestrian travel, including, but not limited to, walks, hallways, courtyards, elevators, platform lifts, ramps, stairways and landings.

CLOSED-CIRCUIT TELEPHONE. A telephone with a dedicated line such as a house phone, courtesy phone or phone that must be used to gain entrance to a facility.

DETECTABLE WARNING. A standardized surface feature built in or applied to walking surfaces or other elements to warn of hazards on a circulation path.

DWELLING UNIT OR SLEEPING UNIT, TYPE A. A dwelling unit or sleeping unit designed and constructed for accessibility and adaptability in accordance with the requirements for Type A units in ICC/ANSI A117.1.

DWELLING UNIT OR SLEEPING UNIT, TYPE B. A dwelling unit or sleeping unit designed and constructed for accessibility in accordance with the requirements for Type B units in ICC/ANSI A117.1 and consistent with the design and construction requirements of the federal Fair Housing Act.

DWELLING UNIT OR SLEEPING UNIT, MULTISTORY. A dwelling unit or sleeping unit with habitable space located on more than one story.

ELEVATED PLAY COMPONENT. A play component that is approached above or below grade and that is part of a composite play structure consisting of two or more play components attached or functionally linked to create an integrated unit providing more than one play activity.

FACILITY. All or any portion of buildings, structures, site improvements, elements, and pedestrian or vehicular routes located on a site.

FUNCTIONAL SPACES. The rooms or spaces in a building or facility that house the primary functions for which the building or facility is intended and the secondary or supporting functions that relate to the support, maintenance or performance of the primary functions, including connective or ancillary spaces such as parking and storage. Unfinished or undeveloped space is included as a “functional space.”

GOVERNMENTAL UNIT. The State of Illinois or any political subdivision thereof, including, but not limited to, any county, town, township, city, village, municipality, municipal corporation, school district, park district, local housing authority, public commission, public authority, the Illinois Housing Development Authority or other special purpose district.

GROUND LEVEL PLAY COMPONENT. A play component that is approached and exited at ground level.

HISTORIC BUILDING. Any building, structure or site that is (a) listed in the State or National Register of Historic Places; or (b) designated as a historic property under local or state designation, law or survey; or (c) certified by the State Historic Preservation Officer or the Keeper of the National Register of Historic Places as a contributing resource; or (d) the subject of an opinion issued by the State Historic Preservation Officer or the Keeper of the National Register of Historic Places that the property is eligible to be listed on the National or State Registers of Historic Places either individually or as a contributing building to a historic district.

HISTORIC PRESERVATION. The act or process of accurately preserving and/or recovering the form and details of a historic building and its setting as it appeared at a particular period of time by means of repair, stabilization or restoration as defined herein.

Historic Preservation also includes “Historic Reconstruction” and “Historic Restoration.”

HISTORIC RECONSTRUCTION. The act or process of reproducing by new construction the exact form and detail of an original building, structure, object or part thereof as it appeared at a specific period of time. Historic reconstruction only applies to reconstruction of buildings which are open to view by the public, are used to demonstrate historic or architectural values, and/or are used for purposes of display of a historic building type, design, technique of construction or period setting.

HISTORIC RESTORATION. The act or process of accurately recovering the form and details of a historic building and its setting as it appeared at a particular period of time by means of the removal of later works or by replacement of missing earlier work.

HISTORICALLY INTERPRETED BUILDING. A building which in whole or part is open to view by the public and has as its major purpose the display of a historic or architectural artifact created in the past in order to give a sense of cultural orientation and to establish values of time and place. Historically interpreted buildings do not necessarily have attendants or formal-guided or even self-guided tours.

HOUSING OWNED OR FINANCED BY A GOVERNMENTAL UNIT. Any project or facility or portion thereof in which ownership of dwelling units or sleeping units is held by a governmental unit or a federal agency; or any project or facility or portion thereof in which the construction, maintenance or operation of dwelling units or sleeping units is financed in whole or in part with federal, state or local funds of any type.

INTENDED TO BE OCCUPIED AS A RESIDENCE. A dwelling unit or sleeping unit that can or will be used all or part of the time as the occupant’s place of abode.

LANDMARKS. For purposes of Chapter 18-11, landmarks means buildings, parts of buildings, facilities or sites that have been designated as Chicago Landmarks by ordinance, or are contributing structures in districts designated as Chicago Landmarks by ordinance, or have been granted preliminary landmark status by the Commission on Chicago Landmarks.

PLAY AREA. A portion of a site containing play components designed and constructed for children.

PLAY COMPONENT. An element intended to generate specific opportunities for play, socialization or learning. Play components may be manufactured or natural, and may stand alone or be part of a composite play structure.

PUBLIC ENTRANCE. An entrance that is not a service entrance or a restricted entrance.

PUBLIC-USE AREAS. Interior or exterior rooms or spaces that are made available to the general public.

REPRODUCTION COST. The estimated cost of constructing a new building, structure or site improvement of like size, design and materials at the site of the original building, structure or site improvement, assuming such site is clear. For alterations to a portion of a building or structure, the reproduction cost shall be the estimated cost of reconstructing the space being altered within the original building or structure. Reproduction cost includes all hard costs associated with the construction or reconstruction as herein defined, and shall not include any soft costs. This definition is applicable only to the accessibility requirements for alterations and historic buildings.

RESTRICTED ENTRANCE. An entrance that is made available for common use on a controlled basis but is not a public use or service entrance.

SELF-SERVICE STORAGE FACILITY. Real property designed and used for the purpose of renting or leasing individual storage spaces to customers for the purpose of storing and removing personal property on a self-service basis.

SERVICE ENTRANCE. An entrance intended primarily for delivery of goods or services.

SITE. A parcel of land bounded by a property line or a designated portion of a public right-of-way.

SLEEPING UNIT. A room or space in which people sleep, which can also include permanent provisions for living, eating and either sanitation or kitchen facilities but not both. Such rooms and spaces that are also part of a dwelling unit are not sleeping units.

SOFT CONTAINED PLAY STRUCTURE. A play structure made up of one or more components where the user enters a fully enclosed play environment that utilizes pliable materials, such as plastic, netting or fabric.

TECHNICALLY INFEASIBLE. An alteration of a building or a facility that has little likelihood of being accomplished because the existing structural conditions require the removal or alteration of a load bearing member that is an essential part of the structural frame, or because other existing physical or site constraints prohibit modification or addition of elements, spaces or features in full and strict compliance with the minimum requirements for new construction and necessary to provide accessibility.

TTY. An abbreviation for teletypewriter. Machinery that employs interactive text-based communication through the transmission of coded signals across the

telephone network. TTYs are also called text telephones.

USE ZONE. The ground level area beneath and immediately adjacent to a play structure or equipment that is designated by ASTM F 1487 for unrestricted circulation around the equipment and on whose surface it is predicted that a user will land when falling from or exiting the equipment.

VISITABLE UNIT. A dwelling unit or sleeping unit designed and constructed such that a person with a disability can approach, enter and circulate through a portion of the unit in accordance with Section 18-11-1107.2.4.

WALK. An exterior prepared surface for pedestrian use, including pedestrian areas such as plazas and courts.

WHEELCHAIR SPACE. Space for a single wheelchair and its occupant.

18-11-1103 SCOPING REQUIREMENTS

18-11-1103.1 Where required. Buildings and structures, temporary or permanent, including their associated sites and facilities, shall be accessible to persons with disabilities.

18-11-1103.1.1 Connected buildings. For purposes of calculating the number of Type B units required by Section 18-11-1107, structurally connected buildings and buildings with multiple wings shall be considered one structure.

18-11-1103.1.2 Spaces used for different purposes. A room or space that is intended to be occupied at different times for different purposes shall comply with all requirements that are applicable to each of the purposes for which the room or space will be occupied.

18-11-1103.2 General exceptions. Buildings and structures, temporary or permanent, including their associated sites and facilities, shall be exempt from this chapter to the extent specified in this section.

18-11-1103.2.1 Specific requirements. Accessibility is not required in buildings and facilities or portions thereof to the extent permitted by Sections 18-11-1104 through 18-11-1116.

18-11-1103.2.2 Existing buildings. Existing buildings shall comply with Sections 18-11-1117 and 18-11-1118.

18-11-1103.2.3 Work areas. Individual employee work stations are not required to be accessible but shall be located on an accessible route.

18-11-1103.2.4 Detached dwellings and townhouses. Detached one- and two-family dwellings, townhouses, their accessory structures and their associated sites and facilities are not required to be accessible, except as required by Sections 18-11-1107.6.4 and 18-11-1107.6.5.

18-11-1103.2.5 Utility buildings. Occupancies classified as miscellaneous buildings and structures are exempt from the requirements of this chapter; provided, however, that:

1. In agricultural buildings, access is required to paved work areas and areas open to the general public.
2. This exemption shall not apply to private garages or carports that contain required accessible parking.
3. This exemption shall not apply to police stations, fire stations, gasoline filling stations, lumber yards, parking facilities and telephone exchanges.

18-11-1103.2.6 Construction sites. Structures, sites and equipment directly associated with the actual processes of construction including, but not limited to, portable toilet and bathing units for use exclusively by construction personnel, scaffolding, bridging, materials hoists, materials storage and construction trailers are not required to be accessible. Temporary pedestrian circulation routes around a construction site are not exempt from the requirements of this chapter.

18-11-1103.2.7 Raised areas. Raised areas used primarily for purposes of security, life safety or fire safety, including, but not limited to, observation galleries, prison guard towers, fire towers or life guard stands are not required to be accessible or to be served by an accessible route.

18-11-1103.2.8 Limited access spaces. Nonoccupiable spaces accessed only by ladders, catwalks, crawl spaces, freight elevators, very narrow passageways or tunnels are not required to be accessible.

18-11-1103.2.9 Equipment spaces. Spaces frequented only by personnel for maintenance, repair or occasional monitoring of equipment are not required to be accessible or to be served by an accessible route. Such spaces include, but are not limited to, elevator pits, elevator penthouses, mechanical, electrical, or communications equipment rooms, piping or equipment catwalks, water or sewage treatment pump rooms and stations, electric substations and transformer vaults, and highway and tunnel utility facilities.

18-11-1103.2.10 Single occupant structures. Single occupant structures accessed only by passageways below grade or elevated above

standard curb height, including, but not limited to, toll booths that are accessed only by underground tunnels, are not required to be accessible or to be served by an accessible route.

18-11-1103.2.11 Residential occupancy. A residential occupancy containing five or fewer sleeping units for rent or hire and occupied as the residence of the proprietor is not required to be accessible.

18-11-1103.2.12 Day care facilities and business occupancies in a dwelling unit. If a day care facility or a business occupancy is part of a dwelling unit, only that portion of the structure utilized for the day care facility or business occupancy is required to be accessible.

18-11-1103.2.13 Fuel-dispensing systems. Fuel-dispensing devices are not required to be accessible.

18-11-1103.2.14 Recreation facilities. The following recreation facilities are not required to be accessible or to be served by an accessible route:

1. Raised structures used solely for refereeing, judging or scoring a sport.
2. Water slides.
3. Animal containment areas that are not for public use.
4. Raised boxing or wrestling rings.

18-11-1104 ACCESSIBLE ROUTE

18-11-1104.1 Site arrival points. Accessible routes within the site shall be provided to the accessible building entrance served from public transportation stops; accessible parking and accessible passenger loading zones; taxi stands, if provided; public streets or sidewalks; and accessible facilities on non-contiguous sites.

18-11-1104.2 Within a site. At least one accessible route shall connect accessible buildings, accessible facilities, accessible elements and accessible spaces that are on the same site. An accessible route shall directly connect both sides of the court in court sports.

Exception: An accessible route is not required between accessible facilities that have, as the only means of access between them, a vehicular way not providing for pedestrian access.

18-11-1104.3 Connected spaces. If a building or facility or portion thereof is required to be accessible, at least one accessible route shall connect all accessible entrances of the building or facility with all portions of the building or facility that are required to be accessible. An accessible route shall be provided to connect accessible pedestrian walkways with the public way.

An accessible route shall directly connect both sides of the court in court sports. If only one accessible route is provided, the accessible route shall not pass through kitchens, storage rooms, restrooms, closets, sleeping room or similar spaces.

Exception: Within a dwelling unit, a single accessible route may pass through a kitchen or storage room.

18-11-1104.4 Multilevel buildings and facilities. At least one accessible route shall connect each accessible level, including mezzanines, in multi-level buildings and facilities.

Exceptions:

1. An accessible route is not required to a basement, second story or mezzanine space if all of the following conditions in 1.1 through 1.4 are met; provided, however, that this exception shall not apply to levels containing offices of health care providers, passenger transportation facilities and airports, shopping centers or shopping malls, or to any building owned by the State of Illinois or any governmental unit.
 - 1.1 The basement functional space, second story and mezzanine space are each 1,000 square feet (93 m²) or less in usable or occupiable floor area, exclusive of shafts, partitions, columns, walls, elevators, stairs, permanent fixtures, toilet rooms, janitor closets, mechanical rooms, electrical rooms and telephone equipment rooms; and
 - 1.2 The exempt area consists of the following type of space: 1) the second story of a two-story building; or 2) the mezzanine of a one-story building without a basement; or 3) the second story of a two-story building with a basement having less than 50 percent functional space; or 4) the mezzanine of a one-story building with a basement having less than 50 percent functional space; or 5) a basement having 50 percent or more functional space in a one-story building; and
 - 1.3 Any mezzanine dining area is exempt as provided for in Section 18-11-1108.2.8; and
 - 1.4 Areas of visitor usage or of common employee usage such as locker areas, toilet facilities or lunchrooms if they are the only such facilities in the building.
2. In assembly, institutional, residential and storage occupancies, and in gasoline filling stations, lumber yards, parking facilities and

telephone exchanges, levels that do not contain accessible elements or other spaces required by Sections 18-11-1107 or 18-11-1108 are not required to be served by an accessible route from an accessible level.

18-11-1104.5 Location. Accessible routes shall coincide with or be located in the same area as a general circulation path. If the circulation path is interior, the accessible route shall also be interior.

Exception: Accessible routes from parking garages contained within and serving Type B dwelling units are not required to be interior.

18-11-1104.6 Protruding objects. Protruding objects on circulation paths shall not reduce the clear width of accessible routes or the means of egress and shall comply with Sections 18-11-1104.6.1 through 18-11-1104.6.3.

Exception: This section shall not apply within an area of sport activity used by participants in the conduct of the sport.

18-11-1104.6.1 Protrusion limits. Objects with leading edges more than 27 inches (686 mm) and not more than 80 inches (2032 mm) above the finish floor or ground shall protrude 4 inches (102 mm) maximum horizontally into the circulation path.

Exception: Handrails may protrude 4.5 inches maximum.

18-11-1104.6.2 Free-standing objects. Free-standing objects mounted on posts or pylons shall overhang circulation paths 12 inches (305 mm) maximum if the object is located 27 inches (686 mm) minimum and 80 inches (2032 mm) maximum above the finish floor or ground. If a sign or other obstruction is mounted between posts or pylons and the clear distance between the posts or pylons is greater than 12 inches (305 mm), the lowest edge of such sign or obstruction shall be 27 inches (686 mm) maximum or 80 inches (2032 mm) minimum above the finish floor or ground.

Exception: This requirement shall not apply to sloping portions of handrails serving stairs and ramps.

18-11-1104.6.3 Reduced vertical clearance. Barriers shall be provided if the vertical clearance is less than 80 inches (2032 mm) high. The leading edge of such barrier shall be located 27 inches (686 mm) maximum above the finish floor or ground.

18-11-1105 ACCESSIBLE ENTRANCES

18-11-1105.1 Required. Accessible entrances shall be provided in accordance with this section.

Exceptions:

1. Entrances to spaces not required to be accessible as provided for in Sections 18-11-1107 or 18-11-1108; provided, however, that this exception shall not apply to dwelling unit entrance doors as provided for in Section 18-11-1105.2.
2. Loading and service entrances that are not the only entrance to a building or to a tenant space.

18-11-1105.1.1 Public entrances. In addition to entrances required by Sections 18-11-1105.1.3 through 18-11-1107.5.1.10, at least 60 percent, but not less than one of the entrances to each building and structure and to each separate tenant space within the building or structure, shall comply with the accessible route provisions of this chapter.

18-11-1105.1.2 Based on number of exits. The number of accessible entrances shall not be less than the number of exits required by Chapter 13-160. This provision is not intended to require an increase in the number of entrances planned for the facility.

18-11-1105.1.3 Parking structure entrances. If provided, direct access for pedestrians from parking structures to building or facility entrances shall be accessible.

18-11-1105.1.4 Entrances from tunnels and elevated walkways. If direct access is provided for pedestrians from a pedestrian tunnel or elevated walkway to a building or facility, at least one direct entrance to the building or facility from each tunnel or walkway shall be accessible.

18-11-1105.1.5 Transportation facilities. In addition to the other requirements of this section, transportation facilities shall provide entrances in accordance with Sections 18-11-1105.1.5.1 and 18-11-1105.1.5.2.

18-11-1105.1.5.1 Location. If different entrances serve different transportation fixed routes or groups of fixed routes in transportation facilities, at least one public entrance serving each fixed route or group of fixed routes shall be accessible.

18-11-1105.1.5.2 Direct connections. Direct connections to other facilities shall provide an accessible route from the point of connection to boarding platforms and all transportation system elements required to be accessible. Any elements provided to facilitate future direct connections shall be on an accessible route connecting boarding platforms and all

transportation system elements required to be accessible.

18-11-1105.1.6 Tenant spaces. At least one entrance to each tenancy in a facility shall be accessible, except as provided for in Section 18-11-1108.3 for self-service storage facilities.

18-11-1105.1.7 Restricted entrances. If restricted entrances are provided to a building or facility, at least one restricted entrance to the building or facility shall be accessible.

18-11-1105.1.8 Service entrances. If a service entrance is the only entrance to a building or to a tenancy in a facility, that entrance shall be accessible.

18-11-1105.1.9 Entrances for inmates or detainees. If entrances used only by inmates or detainees and security personnel are provided at judicial facilities, detention facilities or correction facilities, at least one such entrance shall be accessible.

18-11-1105.1.10 Other entrances. If a building or facility has entrances that normally serve passenger loading zones, taxi stands, public streets and sidewalks, or accessible interior vertical access, then at least one of the entrances serving each such function shall comply with the accessible route provisions of this chapter.

18-11-1105.2 Dwelling units. The entrance doors to all dwelling units, excluding townhouses, in buildings that are 4 stories or more in height and contain ten or more dwelling units shall comply with the door requirements of ICC/ANSI A117.1.

18-11-1105.3 Medical care facilities. In hospitals, nursing homes and rehabilitation facilities and outpatient medical care facilities, at least one accessible entrance shall be protected from the weather by a canopy or roof overhang. Such entrance shall incorporate a passenger loading zone complying with Section 18-11-1106.6.

18-11-1105.4 Automatic doors. At least one accessible entrance door to the following facilities shall be a full-powered automatic door complying with ICC/ANSI A117.1 or a door with a push-button automatic opening door:

1. Municipal facilities which contain or provide administrative services available to the general public.
2. Museums with an aggregate area of 5,000 square feet (465 m²) or more.
3. Passenger terminals.
4. Residential buildings over 80 feet (24 384 mm) in height above grade that are required to have Type A dwelling units or sleeping units.

5. Occupancies classified as schools.

18-11-1106 PARKING AND PASSENGER LOADING FACILITIES

18-11-1106.1 Required. If parking is provided, accessible parking spaces shall be provided in compliance with Table 18-11-1106.1 except as required by Sections 18-11-1106.2 and 18-11-1106.3. Undersized spaces for motorcycle parking are not required to be counted in the total number of spaces provided.

TABLE 18-11-1106.1 ACCESSIBLE PARKING SPACES

TOTAL PARKING SPACES PROVIDED	REQUIRED MINIMUM NUMBER OF ACCESSIBLE SPACES
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1,000	2% of total
More than 1,000	20 plus one for each 100 over 1,000

18-11-1106.2 Residential occupancies. If parking is provided to serve residential occupancies that are required to have Type A or Type B units, accessible parking spaces shall be provided in compliance with Table 18-11-1106.2. At least one accessible parking space each shall be provided for a minimum of five percent of the units required by Section 18-11-1107.6.5.1 that receive HUD Section 504 federal funding. If parking is provided within or beneath a building, accessible parking shall also be provided within or beneath the building. Table 18-11-1106.2 shall be applied separately to exterior parking areas and to parking within or beneath a building if both are provided.

TABLE 18-11-1106.2 ACCESSIBLE PARKING SERVING TYPE A AND TYPE B DWELLING UNITS

TOTAL PARKING SPACES PROVIDED	REQUIRED MINIMUM NUMBER OF ACCESSIBLE SPACES ¹
1 to 50	1
51 to 100	2
101 to 150	3
151 to 200	4
201 to 250	5
251 to 300	6

301 to 350	7
351 to 400	8
401 to 450	9
451 to 500	10
More than 500	2% of total

Note 1. In addition, at least one accessible parking space each shall be provided for a minimum of five percent of the units required by Section 18-11-1107.6.5.1 that receive HUD Section 504 federal funding (see Section 18-11-1106.2).

18-11-1106.3 Medical facilities. Parking at outpatient facilities, rehabilitation facilities and outpatient physical therapy facilities shall be provided in accordance with Sections 18-11-1106.3.1 and 18-11-1106.3.2.

18-11-1106.3.1 Outpatient facilities. Ten percent of patient and visitor parking spaces provided to serve outpatient facilities shall be accessible.

18-11-1106.3.2 Rehabilitation facilities and outpatient physical therapy facilities. Twenty percent of patient and visitor parking spaces provided to serve rehabilitation facilities and outpatient physical therapy facilities shall be accessible.

18-11-1106.4 Vertical clearance for vans. For every six accessible parking spaces, and for every fraction of six if there are seven or more accessible parking spaces, at least one parking space shall provide the vertical clearance required by ICC/ANSI A117.1 for vans.

18-11-1106.5 Location and dispersion. Accessible parking spaces shall be located on the shortest accessible route of travel from adjacent parking to an accessible building entrance. If parking serves more than one accessible entrance, parking spaces shall be dispersed and located on the shortest accessible route to the accessible entrances. In parking facilities that do not serve a particular building, accessible parking spaces shall be located on the shortest accessible route to an accessible pedestrian entrance to the parking facility. If buildings have multiple accessible entrances with adjacent parking, accessible parking spaces shall be dispersed and located near the accessible entrances.

Exceptions:

1. In multilevel parking structures, van-accessible parking spaces are permitted on one level.
2. The total number of accessible parking spaces may be distributed among parking lots if greater accessibility is achieved in consideration of such factors as anticipated usage, user convenience, number and location of entrances and level of parking areas.

18-11-1106.6 Passenger loading zones. Passenger loading zones shall be designed and constructed in accordance with ICC/ANSI A117.1.

18-11-1106.6.1 Medical facilities. A passenger loading zone shall be provided at an accessible entrance to licensed medical and long-term care facilities where people receive physical or medical treatment or care if the period of stay exceeds 24 hours. A passenger loading zone shall be incorporated at the weather-protected accessible entrance required by Section 18-11-1105.3.

18-11-1106.6.2 Valet parking. A passenger loading zone shall be provided at valet parking services. If accessible at-grade parking is available, at least one space for self-parking of a vehicle shall be provided.

18-11-1107 DWELLING UNITS AND SLEEPING UNITS

18-11-1107.1 General. In addition to the other requirements of this chapter, occupancies containing dwelling units or sleeping units shall be provided with accessible features in accordance with Sections 18-11-1107.2 through 18-11-1107.7.5.

18-11-1107.2 Design. Dwelling units and sleeping units shall comply with the applicable requirements of Sections 18-11-1107.2.1 through 18-11-1107.2.5. Units required to be Type A units may be designed and constructed as accessible units. Units required to be Type B units may be designed and constructed as accessible units or Type A units. Units required to be visitable units may be designed and constructed as accessible units, Type A units or Type B units. Townhouse units required to comply with Section 18-11-1107.2.5 may be designed and constructed as accessible units or Type A units.

18-11-1107.2.1 Accessible units. Units that are required to be accessible units shall comply with this chapter and the applicable portions of Chapters 1 through 9 of ICC/ANSI A117.1.

18-11-1107.2.2 Type A units. Units that are required to be Type A units shall comply with the applicable portions of Chapter 10 of ICC/ANSI A117.1 except as modified by Sections 18-11-1107.2.2.1 through 18-11-1107.2.2.5

18-11-1107.2.2.1 Accessible route to an entrance. An accessible route shall be provided to the entrance required by Section 18-11-1107.2.2.2 from the public sidewalk or within the site from interior or exterior parking areas or driveways serving the unit.

Exception: If one multi-story unit is located above another unit, the accessible route to the upper unit is not required if a shaft or unenclosed open well is provided to accommodate the installation of a residential elevator complying with

Chapter 18-30, or if a limited-use limited-application elevator complying with Chapter 18-30 or a wheelchair lift complying with Chapter 18-30 is provided. The construction shall be structurally sufficient to allow future installation of the elevator or lift without any additional reinforcement or alteration of structural elements. Conduit for future electrical wiring and power for operation of the elevator or lift shall be provided at the shaft or unenclosed open well. If a shaft is provided, the space occupied for a shaft is not restricted from being used for other purposes before the elevator or wheelchair lift is installed. The floor openings within the shaft or unenclosed open well are not restricted from being in-filled with sub-flooring provided that the in-fill flooring can be removed at the time of installation of the elevator or lift without additional reinforcement or alteration of other structural elements. In lieu of the shaft or open well, an additional single-level ground floor Type A unit of equivalent total floor area shall be provided, in which case the multi-level unit is not required to be a Type A unit.

18-11-1107.2.2.2 Entrance. At least one entrance into the dwelling unit along a front, side or rear yard path or directly from an attached garage serving the unit shall be located on the accessible route required by Section 18-11-1107.2.2.1. The entrance door shall have a minimum clear width of 32 inches (813 mm), but not less than the width required by Chapter 13-160.

18-11-1107.2.2.3 Habitable space on entrance level. At least one accessible habitable room or space, which is not a kitchen, shall be provided on the entrance level. The room or space shall be 70 square feet in area minimum and not less than 7 feet in any dimension.

18-11-1107.2.2.4 Toilet rooms. At least one toilet room complying with the Type A dwelling unit requirements of ICC/ANSI A117.1 that contains a water closet, lavatory and bathtub or shower shall be provided. All other toilet and bathing facilities in the unit shall comply with the requirements of ICC/ANSI A117.1 for Type A dwelling units or Type B dwelling units. At least one toilet room with a water closet and a lavatory shall be provided on the entrance level. This provision is not intended to require more than one toilet and bathing facility in a dwelling unit.

18-11-1107.2.2.5 Access to other levels. Provisions for access within the unit to all levels above and below the entrance level shall be accomplished by using any one of the following methods.

1. If equivalent square footage is provided in a single-level unit, access to other levels is not required.
2. A shaft or unenclosed open well is provided to accommodate the installation of a residential elevator complying with Chapter 18-30, or a limited-use limited-application elevator complying with Chapter 18-30 or a wheelchair lift complying with Chapter 18-30 is provided. The construction shall be structurally sufficient to allow future installation of the elevator or lift without any additional reinforcement or alteration of structural elements. Conduit for future electrical wiring and power for operation of the elevator or lift shall be provided at the shaft or unenclosed open well. If a shaft is provided, the space occupied for a shaft is not restricted from being used for other purposes before the elevator or wheelchair lift is installed. The floor openings within the shaft or unenclosed open well may be in-filled with sub-flooring if the in-fill flooring can be removed at the time of installation of the elevator or lift without additional reinforcement or alteration of other structural elements.
3. Stairways are designed to accommodate the installation of a wheelchair lift that complies with Chapter 18-30, including required stairway width and maneuvering clearance at the top and bottom of the stairway. Conduit for future electrical wiring and power for operation of a wheelchair lift shall be provided from the power source to a location at the stairway where the connection would be made when the lift is installed.

18-11-1107.2.3 Type B units. Units that are required to be Type B units shall comply with the applicable portions of Chapter 10 of ICC/ANSI A117.1.

18-11-1107.2.4 Visitable units. Units that are required to be visitable units shall comply with Sections 18-11-1107.2.4.1 through 18-11-1107.2.4.8.

18-11-1107.2.4.1 Accessible route to an entrance. An accessible route shall be

provided to the entrance required by Section 18-11-1107.2.4.2 from the public sidewalk or within the site from interior or exterior parking areas or driveways serving the unit.

18-11-1107.2.4.2 Entrance. At least one entrance into the dwelling unit along a front, side or rear yard path or directly from an attached garage serving the unit shall be located on the accessible route required by Section 18-11-1107.2.4.1. The entrance door shall have a minimum clear width of 32 inches (813 mm), but not less than the width required by Chapter 13-160. Door thresholds shall comply with ICC/ANSI A117.1.

18-11-1107.2.4.3 Habitable space on entrance level. At least one habitable room or space, which is not a kitchen, shall be provided on the entrance level. The room or space shall be 70 square feet (6.5 m²) in area minimum and not less than 7 feet (2134 mm) in any dimension.

18-11-1107.2.4.4 Path of travel. A path of travel with a width of not less than 36 inches (914 mm) shall be provided on the entrance level extending from the entrance required by Section 18-11-1107.2.4.2 through all corridors and passageways to all habitable rooms on the entrance level. If the length of a segment of the path of travel is 24 inches (610 mm) or less, the minimum required clear width of that segment shall be 32 inches (813 mm). Elevation changes in the path of travel shall comply with ICC/ANSI A117.1.

18-11-1107.2.4.5 Interior doorways. At least one doorway or passageway with a minimum clear width of 32 inches (813 mm) shall be provided to all habitable rooms on the entrance level and to the toilet room required by Section 18-11-1107.2.4.6. Thresholds for these doorways shall comply with ICC/ANSI A117.1. Doors, if provided, shall be equipped with lever hardware. Doors may swing into required clearances if the door swing can be reversed to provide the required clearances without removing or relocating walls or partitions.

18-11-1107.2.4.6 Toilet room. At least one toilet room with a water closet and a lavatory shall be provided on the entrance level. The room shall provide sufficient maneuvering space such that the door is capable of being closed with a person using a wheelchair in the room. A turning space is not required within the room, but there shall be a minimum 30 inches (762 mm) by 48 inches (1219 mm) clear floor space at the water closet and lavatory. If a

cabinet is provided under the lavatory, the clear floor space shall be positioned for a parallel approach to the lavatory. Faucets at the lavatory shall be provided with lever hardware.

18-11-1107.2.4.7 Reinforcement. The walls in the toilet room required by Section 18-11-1107.2.4.6 shall be provided with reinforcement for the future installation of grab bars that comply with ICC/ANSI A117.1.

18-11-1107.2.4.8 Controls. Light switches and electrical outlets on the entrance level shall be mounted within reach ranges complying with ICC/ANSI A117.1. If redundant controls are provided for a single function, only one control is required to be mounted within reach ranges complying with ICC/ANSI A117.1.

18-11-1107.2.5 Townhouses. Townhouse units that are required by Section 18-11-1107.6.4.4.1 to have accessible features shall comply with Sections 18-11-1107.2.5.1 through 1107.2.5.9. A townhouse that complies with this section does not meet the requirements of a Type A unit, unless it also complies with the requirements of Section 18-11-1107.2.2.

18-11-1107.2.5.1 Accessible route to an entrance. An accessible route shall be provided to the entrance required by Section 18-11-1107.2.5.2 from the public sidewalk or within the site from interior or exterior parking areas or driveways serving the unit.

18-11-1107.2.5.2 Entrance. At least one entrance into the dwelling unit along a front, side or rear yard path or directly from an attached garage serving the unit shall be located on the accessible route required by Section 18-11-1107.2.5.1. The entrance door shall have a minimum clear width of 32 inches (813 mm), but not less than the width required by Chapter 13-160. Door thresholds shall comply with ICC/ANSI A117.1.

18-11-1107.2.5.3 Habitable space on entrance level. At least one habitable room or space, which is not a kitchen, shall be provided on the entrance level. The room or space shall be 70 square feet (6.5 m²) in area minimum and not less than 7 feet (2134 mm) in any dimension.

18-11-1107.2.5.4 Path of travel. A path of travel with a width of not less than 36 inches (914 mm) shall be provided on each level through all corridors and passageways to all habitable rooms. If the length of a segment of the path of travel is 24 inches (610 mm) or less, the minimum required clear width of that segment shall be 32 inches (813 mm).

Elevation changes in the path of travel shall comply with ICC/ANSI A117.1.

18-11-1107.2.5.5 Interior doorways. At least one doorway or passageway with a minimum clear width of 32 inches (813 mm) shall be provided to all habitable rooms and toilet rooms. Thresholds for these doorways shall comply with ICC/ANSI A117.1. Doors, if provided, shall be equipped with lever hardware. Doors may swing into required clearances if the door swing can be reversed to provide the required clearances without removing or relocating walls or partitions.

18-11-1107.2.5.6 Toilet room. At least one toilet room complying with the Type A dwelling unit requirements of ICC/ANSI A117.1 that contains a water closet, lavatory and bathtub or shower shall be provided. All other toilet and bathing facilities in the unit shall comply with the requirements of ICC/ANSI A117.1 for Type A dwelling units or Type B dwelling units. At least one toilet room with a water closet and a lavatory shall be provided on the entrance level. This provision is not intended to require more than one toilet and bathing facility in a dwelling unit.

18-11-1107.2.5.7 Kitchen. At least one kitchen complying with the Type A dwelling unit requirements of ICC/ANSI A117.1 shall be provided.

18-11-1107.2.5.8 Controls. Light switches and electrical outlets shall be mounted within reach ranges complying with ICC/ANSI A117.1. If redundant controls are provided for a single function, only one control is required to be mounted within reach ranges complying with ICC/ANSI A117.1.

18-11-1107.2.5.9 Access to other levels. Provisions for access within the unit to all levels above and below the entrance level shall be accomplished by using any one of the following methods:

1. If equivalent square footage is provided in a single-level unit, access to other levels is not required.
2. A shaft or unenclosed open well is provided to accommodate the installation of a residential elevator complying with Chapter 18-30, or a limited-use limited-application elevator complying with Chapter 18-30 or a wheelchair lift complying with Chapter 18-30 is provided. The

construction shall be structurally sufficient to allow future installation of the elevator or lift without any additional reinforcement or alteration of structural elements. Conduit for future electrical wiring and power for operation of the elevator or lift shall be provided at the shaft or unenclosed open well. If a shaft is provided, the space occupied for a shaft is not restricted from being used for other purposes before the elevator or wheelchair lift is installed. The floor openings within the shaft or unenclosed open well may be in-filled with sub-flooring if the in-fill flooring can be removed at the time of installation of the elevator or lift without additional reinforcement or alteration of other structural elements. Maneuvering clearances at landings where entrances to the elevator or lift occur shall not be required if the width of the corridor, hallway or other space in front of the shaft is not less than 36 inches (914 mm).

3. Stairways shall be designed to accommodate the installation of a wheelchair lift that complies with Chapter 18-30. Maneuvering clearances at the top and bottom of the wheelchair lift shall not be required if the width of the corridor, hallway or other space in front of the stairway is not less than 36 inches (914 mm). Conduit for future electrical wiring and power for operation of a wheelchair lift shall be provided from the power source to a location at the stairway where the connection would be made when the lift is installed.

18-11-1107.3 Accessible spaces. Rooms and spaces available to the general public or available for use by residents and serving accessible units, Type A units, Type B units or townhouses required by Section 1107.6.4.4.1 shall be accessible. Accessible spaces shall include toilet and bathing rooms, kitchens, living and dining areas and any exterior spaces, including patios, terraces and balconies.

Exception: Recreational facilities in accordance with Section 18-11-1109.14.

18-11-1107.4 Accessible route. At least one accessible route shall connect accessible building or facility entrances with the primary entrance of each accessible unit, Type A unit and Type B unit within the building or facility and with those exterior and interior spaces and facilities that serve the units. At least one accessible

route shall connect the accessible entrance to townhouses required by Section 18-11-1107.6.4.4.1, with exterior spaces and facilities that serve the units.

Exceptions:

1. If the slope of the finished ground level between accessible facilities and buildings exceeds one unit vertical in 12 units horizontal (1:12), or if physical barriers prevent the installation of an accessible route, a vehicular route with parking that complies with Section 18-11-1106 at each public or common use facility or building is permitted in place of the accessible route.
2. Exterior decks, patios or balconies that are part of Type B units and have impervious surfaces, and are not more than 4 inches (102 mm) below the top of the swinging door threshold or sliding door track.

18-11-1107.5 Institutional occupancies. Institutional occupancies shall be provided with accessible features in accordance with Sections 18-11-1107.5.1 through 18-11-1107.5.5. Outpatient medical care facilities shall be provided with accessible features in accordance with Section 18-11-1107.5.6.

18-11-1107.5.1 Sheltered care facilities. Occupancies classified as sheltered care facilities housing more than 16 persons shall be provided with accessible features in accordance with Sections 18-11-1107.5.1.1 and 18-11-1107.5.1.2.

18-11-1107.5.1.1 Accessible units. At least 4 percent, but not less than one, of the dwelling units and sleeping units shall be accessible units.

18-11-1107.5.1.2 Type B units. In structures with four or more dwelling or sleeping units intended to be occupied as a residence, every dwelling and sleeping unit intended to be occupied as a residence shall be a Type B unit.

Exception: The number of Type B units may be reduced in accordance with Section 18-11-1107.7.

18-11-1107.5.2 Nursing homes. Nursing homes shall be provided with accessible features in accordance with Sections 18-11-1107.5.2.1 and 18-11-1107.5.2.2.

18-11-1107.5.2.1 Accessible units. At least 50 percent, but not less than one, of the dwelling units and sleeping units shall be accessible units.

18-11-1107.5.2.1.1 Accessible beds. Accessible units shall have an accessible route to each side of patient beds and a

clear floor space 36 inches (914 mm) wide minimum along each side of the bed.

18-11-1107.5.2.2 Type B units. In structures with four or more dwelling or sleeping units intended to be occupied as a residence, every dwelling and sleeping unit intended to be occupied as a residence shall be a Type B unit.

Exception: The number of Type B units may be reduced in accordance with Section 18-11-1107.7.

18-11-1107.5.3 Hospitals. General purpose hospitals, psychiatric facilities and detoxification facilities and residential care/assisted living facilities shall be provided with accessible features in accordance with Sections 18-11-1107.5.3.1 and 18-11-1107.5.3.2.

18-11-1107.5.3.1 Accessible units. At least 10 percent, but not less than one, of the dwelling units and sleeping units shall be accessible units.

18-11-1107.5.3.1.1 Accessible beds. Accessible units shall have an accessible route to each side of patient beds and a clear floor space 36 inches (914 mm) wide minimum along each side of the bed.

18-11-1107.5.3.2 Type B units. In structures with four or more dwelling or sleeping units intended to be occupied as a residence, every dwelling and sleeping unit intended to be occupied as a residence shall be a Type B unit.

Exception: The number of Type B units may be reduced in accordance with Section 18-11-1107.7.

18-11-1107.5.4 Rehabilitation facilities. In hospitals and rehabilitation facilities which specialize in treating conditions that affect mobility, or in units within either which specialize in treating conditions that affect mobility, 100 percent of the dwelling units and sleeping units shall be accessible units.

18-11-1107.5.4.1 Accessible beds. Accessible units shall have an accessible route to each side of patient beds and a clear floor space 36 inches (914 mm) wide minimum along each side of the bed.

18-11-1107.5.5 Residential restrained care facilities. In occupancies classified as residential restrained care facilities, at least 5 percent, but not less than one, of the dwelling units and sleeping units shall be accessible units.

18-11-1107.5.6 Outpatient medical care facilities.

Ten percent, but not less than one, of the patient bedrooms and toilets that are provided in outpatient medical care facilities shall be accessible units.

18-11-1107.5.6.1 Accessible beds. Accessible units shall have an accessible route to each side of patient beds and a clear floor space 36 inches (914 mm) wide minimum along each side of the bed.

18-11-1107.6 Residential occupancies. Occupancies classified as residential shall be provided with accessible features in accordance with Sections 18-11-1107.6.1 through 18-11-1107.6.6.

18-11-1107.6.1 Hotels, motels and similar occupancies. Hotels, motels and other occupancies in which the occupants are primarily transient in nature shall be provided with accessible features in accordance with Sections 18-11-1107.6.1.1 through 18-11-1107.6.1.4.

18-11-1107.6.1.1 Accessible units. Accessible dwelling units and sleeping units shall be provided in accordance with Table 18-11-1107.6.1.1. All facilities on a site shall be considered to determine the total number of accessible units.

18-11-1107.6.1.1.1 Dispersion.

Accessible units and units required to have communication features shall be dispersed among the various classes of units and shall provide choices of types of rooms, types of beds and other amenities comparable to the choices provided to other guests. If the minimum number of rooms or beds required to be accessible is not sufficient to allow for complete dispersion, rooms or beds shall be dispersed in the following priority: room type, bed type and amenities.

18-11-1107.6.1.1.2 Overlap. At least one accessible guest room shall also comply with the requirements for communication features; and not more than 10 percent of accessible guestrooms shall be used to satisfy the minimum number of guestrooms required to have communication features.

18-11-1107.6.1.1.3 Seats in roll-in showers. Roll-in showers provided in accessible units shall include a permanently mounted folding shower seat.

TABLE 18-11-1107.6.1.1 ACCESSIBLE DWELLING AND SLEEPING UNITS

TOTAL NUMBER OF UNITS PROVIDED	MINIMUM REQUIRED NUMBER OF ACCESSIBLE GUESTROOMS	MINIMUM REQUIRED NUMBER OF ACCESSIBLE UNITS ASSOCIATED WITH ROLL-IN SHOWERS	NUMBER OF ADDITIONAL UNITS REQUIRED TO HAVE COMMUNICATION FEATURES (Note 1, 2)
1	1	0	1
2 to 25	5% of total, not less than 1	0	2
26 to 50	5% of total	0	4
51 to 75	5% of total	1	7
76 to 100	5% of total	1	9
101 to 150	5% of total	2	12
151 to 200	5% of total	2	14
201 to 300	5% of total	3	17
301 to 400	5% of total	4	20
401 to 500	5% of total	4 plus 1 for each additional 100 over 400	22
501 to 1,000	5% of total	1% of total	5% of total
Over 1,000	5% of total	10 plus 1 for each 100 over 1,000	50 plus 3 for each 100 over 1,000

Note 1. These are in addition to and shall not be the same units as those required to be accessible and those required to have roll-in showers.

Note 2. Visual notification devices shall be provided to alert room occupants of incoming telephone calls and a door knock or bell. Notification devices shall not be connected to visual alarm signal appliances. Permanently installed telephones shall have volume controls and an electrical outlet complying with ICC/ANSI A117.1 located within 48 inches (1219 mm) of the telephone to facilitate the use of a TTY.

18-11-1107.6.1.2 Type B units. In structures with four or more dwelling or sleeping units intended to be occupied as a residence, every dwelling and sleeping unit intended to be occupied as a residence shall be a Type B unit.

Exception: The number of Type B units may be reduced in accordance with Section 18-11-1107.7.

18-11-1107.6.1.3 Accessible beds. In transient lodging facilities with multi-bed rooms or spaces, five percent, but not less than one, of the beds shall be accessible. If facilities for separate sexes are provided, accessible beds shall be dispersed for both sexes.

18-11-1107.6.1.3.1 Clear floor area. A clear floor space complying with ICC/ANSI A117.1 shall be provided on both sides of the accessible bed. The clear floor space shall be positioned for parallel approach to the side of the bed.

Exception: This requirement shall not apply if a single clear floor space complying with ICC/ANSI A117.1 positioned for parallel approach is provided between two beds.

18-11-1107.6.1.4 Doors into and within other units. Doors and doorways for user passage into and within units other than accessible units and Type B units shall comply with the clear width requirements applicable to accessible doors.

18-11-1107.6.2 Multiple dwellings. In multiple dwellings in which the occupants are primarily permanent in nature, Type A and Type B units shall be provided in accordance with Sections 18-11-1107.6.2.1 through 18-11-1107.6.2.3. Planned developments shall comply with Section 18-11-1107.6.4. Housing units owned or financed by a governmental unit shall comply with Section 18-11-1107.6.5.

18-11-1107.6.2.1 Type A units. In buildings three stories or less in height containing more than 20 dwelling units, at least 2 percent, but not less than one, of the units shall be Type A units. In buildings four stories or more in height containing 10 or more dwelling units, at least 20 percent, but not less than one, of the units shall be Type A units. The required units shall be distributed proportionally among the various types and classes of units provided in the building.

Exception: In buildings three stories or less in height, the number of Type A units

may be reduced in accordance with Section 18-11-1107.7.

Construction documents showing accessible features of alternative kitchen elevations after adaptation shall be provided with the initial application for any required permit.

18-11-1107.6.2.2 Type B units. In structures with four or more dwelling or sleeping units intended to be occupied as a residence, every dwelling and sleeping unit intended to be occupied as a residence shall be a Type B unit.

Exception: The number of Type B units may be reduced in accordance with Section 18-11-1107.7; provided, however, that if any level contains a Type A unit, all other units intended to be occupied as a residence on that level must be Type B units.

18-11-1107.6.2.3 Visual alarms. In occupancies required to have a fire alarm system of the type that sends an alarm signal to occupants of more than just an individual dwelling unit or sleeping unit, the system shall include visual alarms complying with NFPA 72 in not less than 20 percent of the dwelling units. The required units shall be distributed proportionally among the various types and classes of units provided. Visual alarm appliance locations shall provide for coverage of all habitable rooms in the required units. The complete system shall be provided at the time the occupancy is initially constructed, except that within the unit, only the required conduit runs must be installed at that time. The visual alarm appliance and the wiring to connect the visual alarm appliance to the system may be omitted at the time of initial construction. The required visual alarm notification appliances and wiring shall be installed on an as-needed basis at the request of the initial occupant.

18-11-1107.6.3 Structures with four or more units. If a structure does not come under the purview of Section 18-11-1107.6.1, Section 18-11-1107.6.2 or Sections 18-11-1107.6.4 through 18-11-1107.6.6, and the structure contains four or more dwelling or sleeping units intended to be occupied as a residence in a single structure, every dwelling and sleeping unit intended to be occupied as a residence shall be a Type B unit. Planned developments shall comply with Section 18-11-1107.6.4. Housing units owned or financed by a governmental unit shall comply with Section 18-11-1107.6.5.

Exception: The number of Type B units may be reduced in accordance with Section 18-11-1107.7.

18-11-1107.6.4 Planned developments. In planned developments that include a residential component, dwelling units and sleeping units shall be provided with accessible features in accordance with Sections 18-11-1107.6.4.1 through 18-11-1107.6.4.5. The minimum number of units required to comply with Section 18-11-1107.6.4.1 shall not be counted as satisfying the minimum number of units required to comply with Section 18-11-1107.6.4.3.

Exception: Buildings that are four stories or more in height containing 10 or more dwelling units shall comply with Section 18-11-1107.6.2 and 18-11-1107.6.3, as applicable, and shall not be counted as part of the development for purposes of determining the required number of units in accordance with this subsection.

If a portion of the units in the development are owned or financed by a governmental unit, the provisions of Sections 18-11-1107.6.5 shall apply only to the number of units that are owned or financed by a governmental unit, and the provisions of Section 18-11-1107.6.4, as applicable, shall apply to the remaining units.

The following information shall be provided for planned developments:

1. Site plan of the entire development identifying the location of the units required to comply with Sections 18-11-1107.6.4.1 through 18-11-1107.6.4.4.
2. Alternative elevations for kitchens in units required to comply with Section 18-11-1107.6.4.1 and 18-11-1107.6.4.4.1 showing accessible features after adaptation.
3. Alternative plans for the units required to comply with Section 18-11-1107.6.4.3.2 showing accessible features that comply with the requirements for a Type A unit.

18-11-1107.6.4.1 Type A units. At least 10 percent, but not less than one, of all units shall be Type A units.

Exceptions:

1. Detached single-family dwellings are not required to comply with this section but shall comply with Section 18-11-1107.6.4.3.2.
2. Townhouses shall comply with Section 18-11-1107.6.4.4.

18-11-1107.6.4.2 Type B units. In structures with four or more dwelling or sleeping units intended to be occupied as a residence, every

dwelling and sleeping unit intended to be occupied as a residence shall be a Type B unit.

Exception: The number of Type B units may be reduced in accordance with Section 18-11-1107.7.

18-11-1107.6.4.3 Visitable units. Visitable units shall be provided in accordance with Sections 18-11-1107.6.4.3.1 through 18-11-1107.6.4.3.3.

18-11-1107.6.4.3.1 Units other than townhouses and detached single-family dwellings. At least 10%, but not less than one, of all units other than townhouses and detached single-family dwellings, shall be visitable units. If the required Type A units have been provided, the number of visitable units is not required to exceed the remaining number of units, if any, on the levels that contain Type A units.

1107.6.4.3.2 Detached single-family dwellings. At least 20%, but not less than one, of all detached single-family dwellings, shall be visitable units.

1107.6.4.3.3 Visitable townhouses. Visitable townhouses shall be provided in accordance with Section 18-11-1107.6.4.4.

18-11-1107.6.4.4 Townhouses. Townhouses shall comply with Sections 18-11-1107.6.4.4.1 and 18-11-1107.6.4.4.2. The minimum number of units required to comply with Section 18-11-1107.6.4.4.1 shall not be counted as satisfying the minimum number of units required to comply with Section 18-11-1107.6.4.4.2.

18-11-1107.6.4.4.1 Units with accessible features. At least 10%, but not less than one, of all townhouse units shall be provided with accessible features complying with Section 18-11-1107.2.5.

18-11-1107.6.4.4.2 Visitable units. At least 10%, but not less than one, of all townhouse units shall be visitable units.

18-11-1107.6.4.5 Visual alarms. In occupancies required to have a fire alarm system of the type that sends an alarm signal to occupants of more than just an individual dwelling unit or sleeping unit, the system shall include visual alarms complying with NFPA 72 in not less than 20 percent of the dwelling units. The required units shall be distributed proportionally among the various types and classes of units provided. Visual alarm appliance locations shall provide for coverage

of all habitable rooms of the required units. The complete system shall be provided at the time the occupancy is initially constructed, except that within the unit, only the required conduit runs must be installed at that time. The visual alarm appliance and the wiring to connect the visual alarm appliance to the system may be omitted at the time of initial construction. The required visual alarm notification appliances and wiring shall be installed on an as-needed basis at the request of the initial occupant.

18-11-1107.6.5 Housing owned or financed by a governmental unit. For projects with residential occupancies in which some or all of the dwelling units and sleeping units are owned or financed by a governmental unit in which there are five or more dwelling units on each project site, Type A units, Type B units and visitable units shall be provided in accordance with Sections 18-11-1107.6.5.1 through 18-11-1107.6.5.4. The minimum number of units required to comply with Section 18-11-1107.6.5.1 shall not be counted as satisfying the minimum number of units required to comply with Section 18-11-1107.6.5.3.

Exception: Buildings that are four stories or more in height containing 10 or more dwelling units shall comply with Section 18-11-1107.6.2 and 18-11-1107.6.3, as applicable, and shall not be counted as part of the project for purposes of determining the required number of units in accordance with this section.

18-11-1107.6.5.1 Type A units. At least 20 percent, but not less than one, of all units shall be Type A units. The required units shall be distributed proportionally among the various types and classes of units and the various types of buildings provided in the project.

18-11-1107.6.5.2 Type B units. Every dwelling and sleeping unit intended to be occupied as a residence shall be a Type B unit.

Exception: The number of Type B units may be reduced in accordance with Section 18-11-1107.7, provided that on any level that contains a Type A unit, all other units intended to be occupied as a residence on that level must be Type B units.

18-11-1107.6.5.3 Visitable units. At least 10%, but not less than one, of all units shall be visitable units. If the required Type A units have been provided, the number of visitable units is not required to exceed the remaining number of units, if any, on the levels that contain Type A units.

18-11-1107.6.5.4 Visual alarms. In occupancies required to have a fire alarm system of the type that sends an alarm signal to occupants of more than just an individual dwelling unit or sleeping unit, the system shall include visual alarms complying with NFPA 72 in not less than 20 percent of the dwelling units. The required units shall be distributed proportionally among the various types and classes of units provided. Visual alarm appliance locations shall provide for coverage of all habitable rooms of the required units. The complete system shall be provided at the time the occupancy is initially constructed, except that within the unit, only the required conduit runs must be installed at that time. The visual alarm appliance and the wiring to connect the visual alarm appliance to the system may be omitted at the time of initial construction. The required visual alarm notification appliances and wiring shall be installed on an as-needed basis at the request of the initial occupant.

18-11-1107.6.6 Residential care facilities. Residential care and assisted living facilities housing more than 5 but not more than 16 persons shall be provided with accessible features in accordance with Sections 18-11-1107.6.6.1 through 18-11-1107.6.6.3.

18-11-1107.6.6.1 Accessible units. In facilities where none of the units are housing units owned or financed by a governmental unit, at least one of the dwelling or sleeping units shall be an accessible unit.

18-11-1107.6.6.2 Type A units: In buildings in which some or all of the units are owned or financed by a governmental unit, at least 20 percent, but not less than one, of all units shall be Type A units. The required units shall be distributed proportionally among the various types and classes of units provided in the building.

18-11-1107.6.6.3 Type B units. In structures with four or more dwelling or sleeping units intended to be occupied as a residence, every dwelling and sleeping unit intended to be occupied as a residence shall be a Type B unit.

Exception: The number of Type B units may be reduced in accordance with Section 18-11-1107.7.

18-11-1107.7 General exceptions. If specifically permitted by Sections 18-11-1107.5 or 18-11-1107.6, the required number of Type A and Type B units may

be reduced in accordance with Sections 18-11-1107.7.1 through 18-11-1107.7.5.

18-11-1107.7.1 Buildings without elevator service. If no elevator service is provided in a building, only the dwelling and sleeping units that are located on stories indicated in Sections 18-11-1107.7.1.1 and 18-11-1107.7.1.2 are required to be Type A and Type B units. The number of Type A units shall be determined in accordance with Section 18-11-1107.6.

18-11-1107.7.1.1 One story with Type B units required. At least one story containing dwelling units or sleeping units intended to be occupied as a residence shall be provided with an accessible entrance from the exterior of the building and all units intended to be occupied as a residence on that story shall be Type B units.

18-11-1107.7.1.2 Additional stories with Type B units. On all other stories that have a building entrance in proximity to arrival points intended to serve units on that story, all dwelling units and sleeping units intended to be occupied as a residence served by that entrance on that story shall be Type B units if both of the following conditions are met:

1. The slopes of the undisturbed site measured between the planned entrance and all vehicular or pedestrian arrival points within 50 feet (15 240 mm) of the planned entrance are 10% or less; and
2. The slopes of the planned finished grade measured between the entrance and all vehicular or pedestrian arrival points within 50 feet (15 240 mm) of the planned entrance are 10% or less.

If no such arrival points are within 50 feet (15 240mm) of the entrance, the closest arrival point shall be used unless that arrival point serves the story required by Section 18-11-1107.7.1.1.

18-11-1107.7.2 Multistory units. A multistory dwelling or sleeping unit that is not provided with elevator service is not required to be a Type B unit. If a multistory unit is provided with external elevator service to only one floor, the floor provided with elevator service shall be the primary entry to the unit, shall comply with the requirements for a Type B unit, and a toilet facility complying with the requirements for a Type B unit shall be provided on that floor.

18-11-1107.7.3 Elevator service to the lowest story with units. If elevator service in the building provides an accessible route only to the lowest

story containing dwelling or sleeping units intended to be occupied as a residence, only the units on that story which are intended to be occupied as a residence are required to be Type B units.

18-11-1107.7.4 Site impracticality. On a site with multiple non-elevator buildings, the number of units required by Section 18-11-1107.7.1 to be Type B units may be reduced to a percentage that is equal to the percentage of the entire site having grades, prior to development, which are less than 10 percent, provided that all of the following conditions are met:

1. Not less than 20 percent of the units required by Section 18-11-1107.7.1 on the site are Type B units; and
2. Units required by Section 18-11-1107.7.1 are Type B units if the slope between the building entrance serving the units on that story and a pedestrian or vehicular arrival point is no greater than 8.33 percent; and
3. Units required by Section 18-11-1107.7.1 are Type B units if an elevated walkway is planned between a building entrance serving the units on that story and a pedestrian or vehicular arrival point and the slope between them is 10 percent or less; and
4. Units served by an elevator in accordance with Section 18-11-1107.7.3 are Type B units.

18-11-1107.7.5 Base flood elevation. The required number of Type A and Type B units shall not apply to a site if the top of the finish floor of the lowest floor in a non-elevator building is required to be at or above the base flood elevation resulting in:

1. A difference in elevation exceeding 30 inches (762 mm) between the minimum required floor elevation at the primary entrances and vehicular and pedestrian arrival points within 50 feet (15,240 mm) of the primary entrances; and
2. A slope exceeding 10 percent between the minimum required floor elevation at the primary entrances and vehicular and pedestrian arrival points within 50 feet (15,240 mm) of the primary entrances.

If no such arrival points are within 50 feet (15 240 mm) of the primary entrances, the closest arrival point shall be used.

18-11-1108 SPECIFIC OCCUPANCIES

18-11-1108.1 General. In addition to the other requirements of this chapter, the requirements of Sections 18-11-1108.2 through 18-11-1108.4 shall apply to specific occupancies.

18-11-1108.2 Assembly area seating. Assembly areas with fixed seating shall comply with Sections 18-11-1108.2.1 through 18-11-1108.2.7.1 and 18-11-1108.2.9. Dining areas shall comply with Sections 18-11-1108.2.8 through 18-11-1108.2.8.4.

18-11-1108.2.1 Services. Services and facilities provided in areas not required to be accessible shall be provided on an accessible level and shall be accessible.

18-11-1108.2.2 Wheelchair spaces. Wheelchair spaces shall be provided in accordance with Sections 18-11-1108.2.2.1 through 18-11-1108.2.2.3. Wheelchair spaces shall adjoin an accessible route. The accessible route shall not overlap the wheelchair space.

18-11-1108.2.2.1 Number and location. Wheelchair spaces shall be provided in the number and locations required by Sections 18-11-1108.2.2.1.1 through 18-11-1108.2.2.1.3.

18-11-1108.2.2.1.1 General seating. In theaters, bleachers, grandstands and other fixed seating assembly areas, accessible wheelchair spaces shall be provided in accordance with Table 18-11-1108.2.2.1.

TABLE 18-11-1108.2.2.1 ACCESSIBLE WHEELCHAIR SPACES

CAPACITY OF SEATING IN ASSEMBLY AREAS	MINIMUM REQUIRED NUMBER OF WHEELCHAIR SPACES
1 to 25	1
26 to 50	2
51 to 100	4
101 to 150	5
151 to 200	6
210 to 300	7
310 to 400	8
401 to 500	9
501 to 1,000	2 percent of total number
Over 1,000	20, plus 1 additional space for each 100, or fraction thereof, over 1,000

18-11-1108.2.2.1.2 Luxury boxes, club boxes and suites in arenas, stadiums and grandstands. In each luxury box, club box and suite within arenas, stadiums and grandstands, wheelchair spaces shall be provided in accordance with Table 18-11-1108.2.2.1.

18-11-1108.2.2.1.3 Other boxes. In boxes other than those required to comply with Section 18-11-1108.2.2.1.2, the total number of wheelchair spaces provided shall be determined in accordance with Table 18-11-1108.2.2.1. Wheelchair

spaces shall be located in not less than 20 percent of all boxes provided.

18-11-1108.2.2.2 Integration. Wheelchair spaces shall be an integral part of the seating plan and shall be provided so as to provide a choice of admission prices and a range of viewing angles as required by Section 18-11-1108.2.2.3.

18-11-1108.2.2.3 Dispersion. Wheelchair spaces shall be dispersed as required by Sections 18-11-1108.2.2.3.1 and 18-11-1108.2.2.3.2 and shall provide spectators with choices of seating locations and viewing angles that are substantially equivalent to, or better than, the choices of seating locations and viewing angles available to all other spectators. If the minimum required number of wheelchair spaces have been dispersed in accordance with this section further dispersion shall not be required.

18-11-1108.2.2.3.1 Horizontal dispersion. Wheelchair spaces shall be dispersed horizontally.

Exceptions:

1. This requirement shall not apply in assembly areas of 300 seats or less if the wheelchair seating is located in the 2nd or 3rd quartile of the row length. Intermediate aisles shall be included in determining total row length.
2. In row seating, two wheelchair spaces may be located side-by-side.

18-11-1108.2.2.3.2 Vertical dispersion. Wheelchair spaces shall be dispersed vertically at varying distances from the screen, performance area or playing field. In addition, wheelchair spaces shall be located in each balcony or mezzanine that is located along an accessible route.

Exceptions:

1. Vertical dispersion shall not apply in assembly areas of 300 seats or less if wheelchair seating provides viewing angles that are equivalent to, or better than, the average viewing angle provided in the facility.
2. In bleachers, wheelchair spaces shall not be required in rows other than rows at points of entry to bleacher seating.
3. Two wheelchair spaces may be located side-by-side.

individuals in the first row in front of wheelchairs spaces.

18-11-1108.2.2.4 Lines of sight. Lines of sight to the screen, performance area or playing field for spectators in wheelchair spaces shall comply with Sections 18-11-1108.2.2.4.1 and 18-11-1108.2.2.4.2.

18-11-1108.2.2.4.1 Lines of sight over seated spectators. In classrooms, lecture halls, courtrooms, meeting rooms, legislative chambers, theaters, centers for performing arts and similar facilities where spectators are expected to remain seated during events, spectators in wheelchair spaces shall be afforded lines of sight complying with the following:

1. If spectators are provided lines of sight over the heads of individuals seated in the first row in front of their seats, spectators seated in wheelchair spaces shall be afforded lines of sight over the heads of seated individuals in the first row in front of wheelchairs spaces.
2. If spectators are provided lines of sight over the shoulders and between the heads of individuals seated in the first row in front of their seats, spectators seated in wheelchair spaces shall be afforded lines of sight over the shoulders and between the heads of seated individuals in the first row in front of wheelchairs spaces.

18-11-1108.2.2.4.2 Lines of sight over standing spectators. In arenas, stadiums, grandstands, convention centers and similar facilities where spectators are expected to stand during events, spectators in wheelchair spaces shall be afforded lines of sight complying with Section 18-11-1108.2.2.4.1 and the following:

1. If standing spectators are provided lines of sight over the heads of individuals standing in the first row in front of their seats, spectators seated in wheelchair spaces shall be afforded lines of sight over the heads of standing individuals in the first row in front of wheelchairs spaces.
2. If standing spectators are provided lines of sight over the shoulders and between the heads of individuals standing in the first row in front of their seats, spectators seated in wheelchair spaces shall be afforded lines of sight over the shoulders and between the heads of standing

18-11-1108.2.3 Companion seats. At least one companion seat shall be provided for each wheelchair space required by Section 18-11-1108.2.2.1. In row seating, companion seats shall be located to provide shoulder alignment with adjacent wheelchair spaces. The shoulder alignment point of the wheelchair space shall be measured 36 inches (914 mm) from the front of the wheelchair space. The floor surface of the companion seat shall be at the same elevation as the floor surface of the wheelchair space.

18-11-1108.2.4 Designated aisle seats. Five percent of the total number of aisle seats provided shall be designated aisle seats. Designated aisle seats shall be the aisle seats located closest to accessible routes. If armrests are provided on seating in the immediate area, folding or retractable armrests shall be provided on the aisle side of the seat. Each designated aisle seat shall be identified by a sign or marker.

18-11-1108.2.5 Lawn seating. If fixed seats are not provided, lawn seating areas and exterior overflow seating areas shall connect to an accessible route.

18-11-1108.2.6 Public address system. If stadiums, arenas and grandstands provide audible public announcements regarding events and facilities, equivalent text information shall also be provided.

18-11-1108.2.7 Assistive listening systems. If audible communications are integral to the use of stadiums, theaters, auditoriums, lecture halls and similar fixed seating assembly areas, the area shall have an assistive listening system if the area is equipped with an audio amplification system or the area has a capacity of 50 or more persons.

18-11-1108.2.7.1 Receivers. The minimum required number of receivers shall be four percent of the total number of seats, but not less than two receivers. Twenty-five percent of receivers, but not less than two, shall be hearing aid compatible.

18-11-1108.2.8 Dining areas. In dining areas, the total floor area allotted for seating and tables shall be accessible.

Exception: In buildings without elevators, an accessible route to a mezzanine seating area is not required, provided that the mezzanine contains less than 25 percent of the total area allotted for seating and tables and the same services are provided in the accessible area.

18-11-1108.2.8.1 Fixed or built-in seating or tables. If fixed or built-in seating or tables are provided in dining areas, at least 5 percent, but not less than one such seat or table, shall be accessible and distributed throughout the facility. In establishments where separate areas are designated for smoking and non-smoking patrons, the required number of accessible fixed tables or counters shall be proportionally distributed between the smoking and non-smoking areas.

18-11-1108.2.8.2 Dining counters. In establishments serving food or drink for consumption where the only seating is at counters exceeding 34 inches (864 mm) in height, a 60-inch (1524 mm) minimum length portion of the counter shall be accessible.

18-11-1108.2.8.3 Raised platforms. In banquet rooms or spaces, if a head table or speaker's position is located on a raised platform, an accessible route shall be provided to the platform. The open edges of a raised platform shall be protected by a curb, the placement of tables or other equivalent barrier.

18-11-1108.2.8.4 Space for vending machines and similar equipment. In restaurants and cafeterias, spaces for vending machines and similar equipment shall be located on an accessible route and shall comply with the requirements for space allowances and reach ranges.

18-11-1108.2.9 Recreation facilities. If a team or player seating area contains fixed seats and serves an area of sport activity, the seating area shall contain the number of wheelchair spaces required by Table 18-11-1108.2.2.1. This provision shall not apply to team or player seating areas serving bowling lanes not required to be accessible.

18-11-1108.2.10 Press boxes. Press boxes in assembly areas shall be on an accessible route.

Exceptions:

1. An accessible route shall not be required to press boxes in bleachers that have points of entry at only one level, provided that the aggregate area of all press boxes is 500 square feet (47 m²) maximum.
2. An accessible route shall not be required to free-standing press boxes that are elevated above grade 12 feet (3658 mm) or more, provided that the aggregate area of all press boxes is 500 square feet (47 m²) maximum.

18-11-1108.3 Self-service storage facilities. Self-service storage facilities shall provide accessible individual self-storage spaces in accordance with Table 18-11-1108.3.

18-11-1108.3.1 Dispersion. Accessible individual self-service storage spaces shall be dispersed throughout the various classes of spaces provided. If more classes of spaces are provided than the number of required accessible spaces, the number of accessible spaces may exceed that required by Table 18-11-1108.3. Accessible spaces are not required to be dispersed among buildings in a multi-building facility.

TABLE 18-11-1108.3 ACCESSIBLE SELF-SERVICE STORAGE FACILITIES

TOTAL SPACES IN FACILITY	MINIMUM NUMBER OF REQUIRED ACCESSIBLE SPACES
1 to 200	5%, but not less than 1
Over 200	10, plus 2% of total number of units over 200

18-11-1108.4 Museums and exhibition areas. In museums and exhibition areas, every level with displays open to public viewing shall be accessible. The displays shall be on an accessible route and shall be provided with an accessible means of egress. Displays shall be capable of being viewed by seated persons and shall be accessible to people with disabilities.

Exception: This provision shall not apply to trade shows and similar temporary exhibits with a duration of less than 30 days.

18-11-1109 OTHER FEATURES AND FACILITIES

18-11-1109.1 General. Accessible building features and facilities shall be provided in accordance with Sections 18-11-1109.2 through 18-11-1109.18.

Exception: Type A and Type B dwelling and sleeping units, townhouses required by Section 18-11-1107.6.4.4 and visitable units required by Sections 18-11-1107.6.4.3 and 18-11-1107.6.5.3 shall comply with the applicable provisions of Section 18-11-1107.2.

18-11-1109.2 Toilet and bathing facilities. Toilet rooms and bathing facilities shall be accessible. If a floor level is not required to be connected by an accessible route, the only toilet rooms or bathing facilities provided within the facility shall not be located on the inaccessible floor. At least one of each type of fixture, element, control or dispenser in each accessible toilet room and bathing facility shall be accessible. Design and location of plumbing fixtures shall provide the same conditions and privacy for all users.

Exceptions:

1. In toilet rooms or bathing facilities accessed only through a private office, and not for common or public use, and intended for use by a single occupant, any of the following alternatives are allowed:
 - 1.1 Doors are permitted to swing into the clear floor space provided the door swing can be reversed to meet the requirements of ICC/ANSI A117.1;
 - 1.2 The height requirements for the water closet in ICC/ANSI A117.1 are not applicable;
 - 1.3 Grab bars are not required in a toilet room, provided that reinforcement has been installed in the walls and located so as to permit the installation of such grab bars;
 - 1.4 The requirement for height, knee and toe clearance shall not apply to a lavatory.
2. This section is not applicable to toilet and bathing facilities that serve dwelling units or sleeping units not required by Section 18-11-1107.
3. If multiple single-user toilet rooms or bathing facilities are clustered at a single location and contain fixtures in excess of the minimum required number of plumbing fixtures, at least 5 percent, but not less than one room for each use at each cluster, shall be accessible.

18-11-1109.2.1 Unisex toilet and bathing rooms.

In assembly and mercantile occupancies, an accessible unisex toilet room shall be provided if an aggregate of six or more male and female water closets are required. In buildings of mixed occupancy, only those water closets required for the assembly or mercantile occupancy shall be used to determine the unisex toilet room requirement. In recreational facilities where separate-sex bathing rooms are provided, an accessible unisex bathing room shall be provided.

Exception: If each separate-sex bathing room has only one shower or bathtub fixture, a unisex bathing room is not required.

18-11-1109.2.1.1 Standard. Unisex toilet and bathing rooms shall comply with this section and ICC/ANSI A117.1.

18-11-1109.2.1.2 Unisex toilet rooms. Unisex toilet rooms shall include only one water closet and only one lavatory. A unisex bathing room in accordance with Section 18-11-1109.2.1.3 shall be considered a unisex toilet room.

18-11-1109.2.1.3 Unisex bathing rooms. Unisex bathing rooms shall include only one

shower or bathtub fixture. Unisex bathing rooms shall also include one water closet and one lavatory. If storage facilities are provided in separate-sex bathing rooms, accessible storage facilities shall be provided in unisex bathing rooms.

18-11-1109.2.1.4 Location. Unisex toilet and bathing rooms shall be located on an accessible route. Unisex toilet rooms shall be located not more than one story above or below separate-sex toilet rooms. The accessible route from any separate-sex toilet room to a unisex toilet room shall not exceed 500 feet (152 m).

18-11-1109.2.1.5 Prohibited location. In passenger transportation facilities and airports, the accessible route from separate-sex toilet rooms to a unisex toilet room shall not pass through security checkpoints.

18-11-1109.2.1.6 Clear floor space. If doors swing into a unisex toilet or bathing room, a clear floor space not less than 30 inches (762 mm) by 48 inches (1219 mm) shall be provided, within the room, beyond the area of the door swing.

18-11-1109.2.1.7 Privacy. Doors to unisex toilet and bathing rooms shall be securable from within the room.

18-11-1109.2.2 Water closet compartment. If water closet compartments are provided in a toilet room or bathing facility, at least one wheelchair-accessible compartment shall be provided. If six or more combined total water closet compartments and urinals are provided in a toilet room or bathing facility, at least one ambulatory-accessible water closet compartment shall be provided in addition to the wheelchair-accessible compartment. Wheelchair-accessible and ambulatory-accessible compartments shall comply with ICC/ANSI A117.1.

18-11-1109.2.3 Water temperature. The temperature of the hot water at lavatory outlets shall not exceed 110 degrees F (43 degrees C).

18-11-1109.2.4 Portable toilet and bathing units. If multiple single-user portable toilet or bathing units are grouped at a single location, at least 5 percent, but not less than one toilet unit or bathing unit at each group, shall comply with ICC/ANSI A117.1.

Exception: Portable toilet and bathing units provided for use exclusively by construction personnel on a construction site.

18-11-1109.3 Sinks. If sinks are provided, at least 5 percent, but not less than one of the sinks provided in accessible spaces shall comply with ICC/ANSI A117.1.

Exception: Mop or service sinks are not required to be accessible.

18-11-1109.4 Kitchens, kitchenettes and wet bars. Kitchens, kitchenettes and wet bars provided in accessible spaces or rooms shall comply with ICC/ANSI A117.1.

18-11-1109.5 Drinking fountains and water coolers. If drinking fountains are provided, they shall be provided in accordance with Sections 18-11-1109.5.1 and 18-11-1109.5.2. If water coolers are provided, they shall be provided in accordance with Sections 18-11-1109.5.1 and 18-11-1109.5.3.

18-11-1109.5.1 Location on accessible route. All public drinking fountains and water coolers provided in a facility shall be located on an accessible route.

18-11-1109.5.2 Drinking fountains - minimum number. A minimum of two drinking fountains shall be provided. Fifty percent of the total number provided shall be accessible. Fifty percent shall have a spout height of 38 inches (965 mm) minimum and 43 inches (1092 mm) maximum above finish floor.

Exceptions:

1. The requirement for a minimum of two drinking fountains shall not apply if a single drinking fountain is provided that complies with the provisions for an accessible drinking fountain and the provision for a spout height of 38 inches (965 mm) minimum and 43 inches (1092 mm) maximum above finish floor.
2. When applying the 50 percent requirement to an odd number of drinking fountains, the number may be rounded up or down provided that the total number of drinking fountains that comply with this section equals 100 percent of drinking fountains.

18-11-1109.5.3 Water coolers – minimum number. At least 50 percent, but not less than one, of water coolers provided on each floor shall comply with ICC/ANSI A117.1.

18-11-1109.6 Elevators. Passenger elevators on an accessible route shall be accessible and comply with ICC/ANSI A117.1.

18-11-1109.6.1 Elevator in exempt facility. If an elevator does not provide a required accessible route but a full passenger elevator is nonetheless provided, the elevator shall comply with the

requirements for an accessible elevator and shall serve each level in the building.

18-11-1109.6.2 Rails in elevator cars. Rails shall be provided on the side walls of the elevator car, mounted between 32 inches (813 mm) and 36 inches (914 mm) above the floor of the car. The rails shall be 1-inch (25 mm) to 2-inch (51 mm) diameter grab bars complying with ICC/ANSI A117.1 or shall be bar sections 1¼ inches (32 mm) to 1½ inches (38 mm) in depth by 3/8-inch (10 mm) in thickness with 1/8-inch (3 mm) radius edges.

18-11-1109.7 Lifts. Platform lifts shall not be a part of a required accessible route in new construction.

Exception: Platform lifts are permitted for:

1. An accessible route to a performance area and to raised platforms in assembly occupancies.
2. An accessible route to wheelchair spaces required by Section 18-11-1108.2.2.
3. An accessible route to spaces with an occupant load of not more than five, if the space is not open to the general public.
4. An accessible route within a dwelling or sleeping unit.
5. An accessible route to wheelchair seating spaces located in outdoor dining terraces in open air assembly occupancies, if the means of egress from the dining terraces to a public way is open to the outdoors.
6. An accessible route to the second story or the mezzanine of a two-story building or to the basement or mezzanine space of a one-story building, if each story is more than 1,000 square feet (93 m²) and less than 3,000 square feet in area (279 m²), and the building is not a shopping center, shopping mall or the professional office of a health care provider.
7. An accessible route in play areas in accordance with Section 18-11-1115.
8. An accessible route to player seating areas serving an area of sport activity.

18-11-1109.8 Storage. If fixed or built-in storage elements such as cabinets, shelves, medicine cabinets, closets and drawers are provided in required accessible spaces, at least five percent, but not less than one, of each type shall contain storage space complying with ICC/ANSI A117.1.

18-11-1109.8.1 Lockers. If lockers are provided in accessible spaces, at least five percent, but not less than one, of each type shall be accessible.

18-11-1109.8.2 Shelving and display units. Self-service shelves and display units in police stations, fire stations, mercantile occupancies and business occupancies and shelving in stack areas of libraries shall be located on an accessible route. Such shelving and display units shall not be required to

comply with reach-range provisions of ICC/ANSI A117.1. Card catalogs, magazine displays and reference materials in libraries shall comply with the height requirements for a forward reach, regardless of the direction of approach provided.

18-11-1109.8.3 Coat hooks and folding shelves. If coat hooks or folding shelves are provided in inaccessible toilet rooms or toilet compartments or in dressing, fitting or locker rooms, at least one of each type shall be provided in accessible toilet rooms or toilet compartments or in dressing, fitting and locker rooms.

18-11-1109.9 Detectable warnings. Detectable warnings shall be provided in accordance with Sections 18-11-1109.9.1 through 18-11-1109.9.5.

18-11-1109.9.1 Transit platforms. Passenger transit platform edges bordering a drop-off and not protected by platform screens or guards shall have a detectable warning.

Exception: Detectable warnings are not required at bus stops.

18-11-1109.9.2 Stairways. All unenclosed stairways, other than stairways provided to the side of a path of travel and stairways in dwelling units, shall be provided with a detectable warning complying with Section 18-11-1109.9.2.1 at the top of the stair runs.

18-11-1109.9.2.1 Detectable warning standard for stairways. The detectable warning shall be installed on the landing surface and shall extend from the top riser back for a distance of 36 inches (914 mm) minimum. The surface shall consist of grooves in the floor surface in a parallel or diamond mesh pattern or an applied mat or applied strips. Applied strips shall only be used indoors. The raised portion of the detectable warning shall 1/8 inch (3 mm) high, 3/4 inches (19 mm) to 2 inches (51 mm) wide and the length shall extend for the full width of the stairway. The grooved portion shall be 1/4 inch (6 mm) to 3/4 inch (19 mm) wide. The grooved portion shall be 1/8 inch (3 mm) lower than the top of the raised surface, except that for an applied mat the grooved portion shall be 1/16 inch (1.5 mm) lower than the top of the raised surface.

18-11-1109.9.3 Vehicular way. If a walk crosses or adjoins a vehicular way, and the walking surface is not separated by curbs, railings or other elements between the pedestrian areas and vehicular areas, a continuous, 36-inch wide detectable warning shall be provided between the pedestrian and vehicular areas.

18-11-1109.9.4 Reflecting pools. The edges of reflecting pools shall be protected by railings, walls, curbs or detectable warnings.

18-11-1109.9.5 Doors to hazardous areas. The handle, knob, pull or other operating hardware on doors, leading to rooms or spaces that may be dangerous or cause injury to a person with a visual impairment who accidentally enters such a room or space, shall have a textured surface. The surface shall be made by knurling or roughing or by applying material to the contact surface that has a similar effect. Textured surfaces shall not be provided for means of egress doors. Such rooms or spaces include, but are not limited to, loading docks, boiler and furnace rooms, power generation facilities, electrical and telephone equipment spaces, elevator equipment rooms and elevator pits, tanks, lagoons, storage and processing facilities, highly technical facilities, mechanical, electrical or chemical storage or processing facilities, pump facilities and spaces with complex mechanical components of multi-level construction.

18-11-1109.10 Assembly area seating. Assembly areas with fixed seating shall comply with Section 18-11-1108.2.

18-11-1109.11 Seating at tables, counters and work surfaces. If seating at fixed or built-in tables, counters or work surfaces is provided in accessible spaces, at least 5 percent of the seating, but not less than one seat, shall be accessible.

18-11-1109.11.1 Dispersion. Accessible fixed or built-in seating at tables, counters or work surfaces shall be distributed throughout the space or facility containing such elements.

18-11-1109.12 Other service facilities. Other service facilities as provided for herein shall provide accessible features in accordance with Sections 18-11-1109.12.1 through 18-11-1109.12.6.

18-11-1109.12.1 Dressing, fitting and locker rooms. If dressing rooms, fitting rooms, or locker rooms are provided, at least 5 percent, but not less than one, of each type of use in each cluster provided shall be accessible.

18-11-1109.12.2 Check-out aisles. If check-out aisles are provided, accessible check-out aisles shall be provided in accordance with Table 18-11-1109.12.2. If check-out aisles serve different functions, at least one accessible check-out aisle shall be provided for each function. If check-out aisles are dispersed throughout the building or facility, accessible check-out aisles shall also be dispersed. Traffic control devices, security devices

and turnstiles located in accessible check-out aisles or lanes shall be accessible.

Exception: If the area of the selling space is less than 5,000 square feet (465 m²), only one check-out aisle is required to be accessible.

TABLE 18-11-1109.12.2 ACCESSIBLE CHECK-OUT AISLES

TOTAL CHECK-OUT AISLES OF EACH FUNCTION	MINIMUM NUMBER OF ACCESSIBLE CHECK-OUT AISLES OF EACH FUNCTION
1 to 4	1
5 to 8	2
9 to 15	3
Over 15	3, plus 20% of additional aisles

18-11-1109.12.3 Point of sales and service counters. If counters are provided for sales or distribution of goods or services, at least one of each type provided shall be accessible. If such counters are dispersed throughout the building or facility, the accessible counters shall also be dispersed.

18-11-1109.12.4 Food service lines. Food service lines shall be accessible. If self-service shelves are provided, at least 50 percent, but not less than one, of each type provided shall be accessible. Dispensing devices for tableware, dishes, condiments, food and beverages shall comply with the requirements for reach ranges.

18-11-1109.12.5 Queue and waiting lines. Queue and waiting lines servicing accessible counters or check-out aisles shall be accessible.

18-11-1109.12.6 Saunas and steam rooms. If saunas or steam rooms are provided, at least 5 percent, but not less than one, of each type of use in each cluster provided shall be accessible and shall comply with Sections 18-11-1109.12.6.1 through 18-11-1109.12.6.3.

18-11-1109.12.6.1 Wheelchair turning space. A wheelchair turning space shall be provided within the room. The turning space may be obstructed by readily removable seats.

18-11-1109.12.6.2 Bench. If seating is provided, at least one bench complying with ICC/ANSI A117.1 shall be provided.

18-11-1109.12.6.3 Door swing. Doors shall not swing into any part of the clear floor or ground space required at any bench required by Section 18-11-1109.12.6.2.

18-11-1109.13 Controls, operating mechanisms and hardware. Controls, operating mechanisms and hardware located in accessible spaces, along accessible routes or as parts of accessible elements, including but not limited to, switches that control lighting and ventilation and electrical convenience outlets, shall be accessible if the control, operating mechanism and hardware is intended for operation by the occupant.

Exception: This provision shall not apply to exercise machines.

18-11-1109.13.1 Operable windows. If operable windows are provided for operation by the occupants, at least one window in each room shall be accessible and each required operable window shall be accessible.

Exception: Accessible windows are not required in bathrooms or kitchens.

18-11-1109.14 Recreational facilities. Recreational facilities shall be provided with accessible features in accordance with Sections 18-11-1109.14.1 through 18-11-1109.14.4.

18-11-1109.14.1 Facilities serving a single building. In residential occupancies where recreational facilities are provided serving a single building containing Type A units, Type B units or townhouses required by Section 18-11-1107.6.4.4.1, 25 percent, but not less than one, of each type of recreational facility shall be accessible. Every recreational facility of each type on a site shall be considered to determine the total number of each type that is required to be accessible.

18-11-1109.14.2 Facilities serving multiple buildings. In residential occupancies on a single site where multiple buildings containing Type A units, Type B units or townhouses required by Section 18-11-1107.6.4.4.1 are served by recreational facilities, 25 percent, but not less than one, of each type of recreational facility serving each building shall be accessible. The total number of each type of recreational facility required to be accessible shall be determined by considering every recreational facility of each type serving each building on the site.

18-11-1109.14.3 Other occupancies. All recreational facilities not falling within the purview of Sections 18-11-1109.14.1 or 18-11-1109.14.2 shall be accessible. Campsites shall comply with Section 18-11-1109.14.4.

18-11-1109.14.4 Campsites. Five percent, but not less than one, of all camping sites at a facility shall be accessible to people who use a wheelchair by having an accessible parking space and an

accessible route that leads to the campsites and, if provided, to restrooms and fire pits that serve the campsites.

Exception: If conditions exist that make compliance of a specific feature of the accessible route impractical, the requirement applicable to such feature shall not apply.

18-11-1109.15 Water coolers. If water coolers are provided, at least 50 percent, but not less than one, of the water coolers provided on each floor shall comply with ICC/ANSI A117.1.

18-11-1109.16 Laundry equipment. If washing machines or clothes dryers are provided in spaces required to be accessible, in Type A units and in townhouses required by Section 18-11-1107.6.4.4.1, at least one of each type shall comply with ICC/ANSI A117.1.

18-11-1109.17 Automatic teller machines and fare machines. If automatic teller machines or self-service fare vending, collection or adjustment machines are provided, at least one machine of each type at each location where such machines are provided shall be accessible. If bins are provided for envelopes, waste paper or other purposes, at least one of each type shall be accessible.

18-11-1109.18 Accessible means of egress. Accessible means of egress shall comply with Sections 18-11-1109.18.1 through 18-11-1109.18.7.3. Accessible spaces shall be provided with at least one accessible means of egress. If more than one means of egress is required from any accessible space, each accessible portion of the space shall be served by at least two accessible means of egress.

Exceptions:

1. One accessible means of egress is required from an accessible mezzanine level in accordance with Section 18-11-1109.18.2 or 18-11-1109.18.3.
2. In enclosed and open parking structures, an accessible route to at least one accessible means of egress shall be required from accessible parking spaces. The route to all other required accessible means of egress may exceed the maximum allowable slope otherwise required for accessible routes provided that, at all points along the route, the least possible slope is used.
3. This section is not applicable within dwelling units and sleeping units required by Sections 18-11-1107.6.2 through 18-11-1107.6.5.
4. Accessible means of egress are not required for townhouses.
5. Accessible means of egress are not required for dwelling units and sleeping units that are required to be visitable.

18-11-1109.18.1 General. Each required accessible means of egress shall be continuous to a public way and shall consist of one or more of the following components:

1. Accessible routes complying with Section 18-11-1104.
2. Stairways within exit enclosures complying with Sections 18-11-1109.18.2 and Chapter 13-160.
3. Elevators complying with Section 18-11-1109.18.3.
4. Platform lifts complying with Section 18-11-1109.18.4.
5. Horizontal exits.
6. Smoke barriers.

Exceptions:

1. If the exit discharge is not accessible, an exterior area for assisted rescue must be provided in accordance with Section 18-11-1109.18.7.
2. If the exit stairway is open to the exterior, the accessible means of egress shall include either an area of refuge in accordance with Section 18-11-1109.18.5 or an exterior area for assisted rescue in accordance with Section 18-11-1109.18.7.

18-11-1109.18.1.1 Buildings with four or more stories. In buildings where a required accessible floor is four or more stories above or below a level of exit discharge, at least one required accessible means of egress shall be an elevator complying with Section 18-11-1109.18.3.

Exceptions:

1. In buildings equipped throughout with an automatic sprinkler system installed in accordance with NFPA 13 or NFPA 13R, the elevator shall not be required on floors provided with a horizontal exit and located at or above the level of exit discharge.
2. In buildings equipped throughout with an automatic sprinkler system installed in accordance with NFPA 13 or NFPA 13R, the elevator shall not be required on floors provided with a ramp conforming to the provisions of Chapter 13-160.

18-11-1109.18.2 Enclosed exit stairways. To be considered part of an accessible means of egress, an enclosed exit stairway shall have a clear width of 48 inches (1219 mm) minimum between handrails and shall either incorporate an area of refuge within an enlarged floor-level landing or shall be accessed from either an area of refuge complying with Section 18-11-1109.18.5 or a horizontal exit.

Exceptions:

1. Stairways serving a single guestroom or dwelling unit.
2. The clear width of 48 inches (1219 mm) between handrails is not required at exit stairways in buildings or facilities equipped throughout with an automatic sprinkler system installed in accordance with NFPA 13 or NFPA 13R.
3. The clear width of 48 inches (1219 mm) between handrails is not required for enclosed exit stairways accessed from a horizontal exit.
4. The clear width of 48 inches (1219 mm) between handrails is not required at exit stairways in multiple dwellings.

18-11-1109.18.3 Elevators. Elevators shall be limited in their use as a means of egress as set forth in Chapter 13-160, but may serve as part of an accessible means of egress under the conditions set forth in this section. To be considered part of an accessible means of egress, an elevator shall comply with the emergency operation and signaling devices requirements of Chapter 18-30, and shall also be provided with standby power. The elevator shall be accessed from either an area of refuge complying with Section 18-11-1109.18.5 or a horizontal exit.

18-11-1109.18.4 Platform lifts. Platform lifts shall not serve as part of an accessible means of egress, except if allowed as part of an accessible route in Section 18-11-1109.7. Platform lifts shall be installed in accordance with Chapter 18-30.

18-11-1109.18.5 Areas of refuge. Every required area of refuge shall be accessible from the space it serves by an accessible means of egress. The maximum travel distance from any accessible space to an area of refuge shall not exceed the travel distance permitted for the occupancy in accordance with Chapter 13-160. Every required area of refuge shall have direct access to an enclosed stairway complying with Section 18-11-1109.18.2 and Chapter 13-160 or to an elevator complying with Section 18-11-1109.18.3 such that occupants can travel from the area of refuge into the stairway or elevator lobby without traveling through any other intervening space. If an elevator lobby is used as an area of refuge, the shaft and lobby shall comply with Chapter 13-160 for smokeproof enclosures except if the elevators are in an area of refuge formed by a horizontal exit or smoke barrier.

Exception. In buildings equipped throughout with an automatic sprinkler system installed in accordance with NFPA 13 or NFPA 13R, each floor of the building other than the level of exit discharge shall be provided with either an area

of refuge formed by a horizontal exit, or an area of refuge complying with this section within each enclosed exit stairway.

18-11-1109.18.5.1 Size. Each area of refuge shall be sized to accommodate one wheelchair space of 30 inches (762 mm) by 48 inches (1219 mm) for each 200 occupants or portion thereof, based on the occupant load of the areas served by the area of refuge. Such wheelchair spaces shall not reduce the required means of egress width. Access to any of the required wheelchair spaces in an area of refuge shall not be obstructed by more than one adjoining wheelchair space.

Exception: In buildings and facilities equipped throughout with an automatic sprinkler system installed in accordance with NFPA 13 or NFPA 13R, the area of refuge shall be 10 square feet (0.93 m²) in area minimum and shall not be required to accommodate more than one wheelchair space.

18-11-1109.18.5.2 Separation. Each area of refuge shall be separated from the remainder of the story by an approved smoke barrier. Each area of refuge shall be designed to minimize the intrusion of smoke.

Exceptions.

1. This provision shall not apply to areas of refuge located within a stairway enclosure.
2. This provision shall not apply in buildings equipped throughout with an automatic sprinkler system installed in accordance with NFPA 13 or NFPA 13R.

18-11-1109.18.5.3 Two-way communication. Areas of refuge shall be provided with a two-way communication system between the area of refuge and a central control point. If the central control point is not constantly attended, the area of refuge shall also have controlled access to a public telephone system. Location of the central control point shall be approved by the fire department. The two-way communication system shall include both audible and visible signals.

Exceptions.

1. The two-way communication system is not required in multiple dwellings.
2. This provision shall not apply in buildings equipped throughout with an automatic sprinkler system installed in accordance with NFPA 13 or NFPA 13R.

18-11-1109.18.5.4 Instructions. In areas of refuge that have a two-way emergency communications system, instructions on the use of the area under emergency conditions shall be posted adjoining the communications system. The instructions shall include all of the following:

1. Directions to find other means of egress.
2. Instructions that persons able to use the exit stairway do so as soon as possible, unless they are assisting others.
3. Information on planned availability of assistance in the use of stairs or supervised operation of elevators and how to summon such assistance.
4. Directions for use of the emergency communications system.

Exception. This Section 1109.18.5.4 shall not apply in buildings equipped throughout with an automatic sprinkler system installed in accordance with NFPA 13 or NFPA 13R.

18-11-1109.18.5.5 Identification. Each door providing access to an area of refuge from an adjacent floor area shall be identified by a sign complying with ICC/ANSI A117.1, stating: AREA OF RESCUE ASSISTANCE, and including the International Symbol of Accessibility. If exit sign illumination is required by Chapter 13-160, the area of refuge sign shall be illuminated. Additionally, tactile signage complying with ICC/ANSI A117.1 shall be located at each door to an area of refuge.

Exception. In buildings other than high rise buildings, this Section 1109.18.5.5 shall not apply in buildings equipped throughout with an automatic sprinkler system installed in accordance with NFPA 13 or NFPA 13R.

18-11-1109.18.5.6 Plan. Any floor plans submitted shall indicate the total number of people with disabilities anticipated to be evacuated in an emergency. This information is to be provided in order to assist the owner in preparing an emergency evacuation plan prior to occupancy of the building and is not relevant to any other specific provision of this code for accessible means of egress.

18-11-1109.18.6 Signage. At exits and elevators serving a required accessible space but not providing an approved accessible means of egress, signage shall be installed indicating the location of accessible means of egress. Additional signage indicating the location of accessible means of egress shall also be installed at other locations if

necessary to indicate clearly the direction to accessible means of egress.

18-11-1109.18.7 Exterior area for assisted rescue. The exterior area for assisted rescue must be open to the outside air and meet the requirements of Section 18-11-1109.18.5.1. Separation walls shall comply with the requirements for exterior walls. If walls or openings are between the area for assisted rescue and the interior of the building, the building exterior walls within 10 feet (3048 mm) horizontally of a nonrated wall or unprotected opening shall be constructed as required for a minimum 1-hour fire-resistance rating with 0.75-hour opening protectives. This construction shall extend vertically from the ground to a point 10 feet (3048 mm) above the floor level of the area for assisted rescue or to the roof line, whichever is lower.

18-11-1109.18.7.1 Openness. The exterior area of refuge shall be at least 50 percent open, and the open area above the guards shall be so distributed as to minimize the accumulation of smoke or toxic gases.

18-11-1109.18.7.2 Exterior exit stairway. Exterior exit stairways that are part of the means of egress for the exterior area for assisted rescue shall provide a minimum clear width of 48 inches (1219 mm) between handrails.

Exception: The clear width of 48 inches (1219 mm) between handrails is not required at exterior exit stairways in multiple dwellings.

18-11-1109.18.7.3 Identification. Exterior areas for assisted rescue shall comply with Section 18-11-1109.18.5.5.

18-11-1110 SIGNAGE

18-11-1110.1 Signs. The International Symbol of Accessibility shall be used at the following locations to identify required accessible elements:

1. Accessible parking spaces required by Section 18-11-1106.1. The sign shall be a R7-8 (U.S. Department of Transportation standard) sign that shall also exhibit the words "\$150 Fine". The sign shall be vertically mounted on a post or wall no more than 5 feet (1524 mm) from the front of the parking space. The distance from finished grade to the bottom of the sign shall be 4 feet (1219 mm) minimum. The sign shall be centered on the width of the parking space and located such that the sign will not be obscured by a vehicle parked in the space.
2. Accessible passenger loading zones.

3. Accessible areas of refuge required by Section 18-11-1109.18.
4. Accessible rooms if multiple single-user toilet or bathing rooms are clustered at a single location.
5. Accessible entrances if not all entrances are accessible.
6. Accessible check-out aisles if not all aisles are accessible. The sign, if provided, shall be above the check-out aisle in the same location as the check-out aisle number or type of check-out identification.
7. Unisex toilet and bathing rooms.
8. Accessible dressing, fitting and locker rooms if not all such rooms are accessible.
9. Accessible single-user portable toilet and bathing units.
10. If exterior signs are provided as permanent designations of permanent interior rooms and spaces at the door to the space they serve, the signs shall be tactile. If interior signs are provided as permanent designations of permanent interior rooms and spaces, the signs shall be tactile. If pictograms are provided as permanent designations of permanent interior rooms and spaces, the pictograms shall have tactile text descriptors. Tactile signage shall comply with the requirements of ICC/ANSI A117.1 for visual and tactile characters. Pictograms shall comply with ICC/ANSI A117.1.

18-11-1110.2 Directional signage. Directional signage indicating the route to the nearest like accessible element shall be provided at the following locations and shall include the International Symbol of Accessibility:

1. Inaccessible building entrances.
2. Inaccessible public toilets and bathing facilities.
3. Elevators not serving an accessible route.
4. At each separate-sex toilet and bathing room indicating the location of the nearest unisex toilet or bathing room if provided in accordance with Section 18-11-1109.2.1.
5. At exits and elevators serving a required accessible space but not providing an approved accessible means of egress, signage shall be provided in accordance with Section 18-11-1109.18.6.
6. Signs that provide direction to or information about permanent interior spaces of the site and facilities shall contain visual characters complying with ICC/ANSI A117.1.

Exception: Building directories, personnel names, company or occupant names and logos, menus and temporary signs are not required to comply with ICC/ANSI A117.1.

18-11-1110.3 Other signs. Signage indicating special accessibility provisions shall be provided as follows:

1. In assembly areas required to comply with Section 18-11-1108.2.7, a sign notifying the general public of the availability of assistive listening systems shall be provided at ticket offices or similar locations.
2. At each door to an exit stairway, signage shall be provided in accordance with Section 18-11-1109.18.5.5.
3. At areas of refuge, signage shall be provided in accordance with Sections 18-11-1109.18.5.4 through 18-11-1109.18.5.6.
4. At areas for assisted rescue, signage shall be provided in accordance with Section 18-11-1109.18.7.
5. In transportation terminals, transportation stations and shopping malls, a visual information source shall be provided and located immediately adjacent to all entrances serving the general public. The visual information source shall be one or both of the following.
 - 5.1 A floor plan of the facility with the viewer's position marked and properly oriented, showing vehicle embarkation and disembarkation points, entrances and exits, ticket counters, public lockers, telephones and public toilet rooms.
 - 5.2 Printed and graphic information with tactile characters and symbols.
6. At bus stops and terminals, signage shall be provided in accordance with Section 18-11-1112.6.3.
7. At fixed facilities and stations, signage shall be provided in accordance with Sections 18-11-1113.2.2.
8. At airports, terminal information systems shall be provided in accordance with Section 18-11-1114.3.
9. Signage shall be provided as required by Section 18-11-1111.3 for telephones that have volume controls.
10. Signage shall be provided as required by Section 18-11-1111.4.9 for TTYs.

18-11-1111 TELEPHONES

18-11-1111.1 General. If public pay telephones, public closed-circuit telephones or other types of public telephones are provided, accessible public telephones shall be provided in accordance with Sections 18-11-1111.2 through 18-11-1111.6 for each type of public telephone provided. For purposes of this section, a bank of telephones shall be considered two or more adjacent telephones.

18-11-1111.2 Wheelchair accessible telephones. If public telephones are provided, wheelchair accessible

telephones complying with ICC/ANSI A117.1 shall be provided in accordance with Table 18-11-1111.2.

TABLE 18-11-1111.2 WHEELCHAIR ACCESSIBLE TELEPHONES

NUMBER OF TELEPHONES PROVIDED ON A FLOOR OR LEVEL	MINIMUM REQUIRED NUMBER OF WHEELCHAIR-ACCESSIBLE TELEPHONES
1 or more single units	1 per floor, level, and exterior site
1 bank	1 per floor, level, and exterior site
2 or more banks	1 per bank (Note 1)

1. At least one telephone per floor shall provide a forward approach complying with ICC/ANSI A117.1, except for exterior installations where dial-tone-first service is available.

18-11-1111.3 Volume controls. Each wheelchair-accessible telephone required by Section 18-11-1111.2 and 25 percent, but not less than one, of other public telephones provided shall have volume control complying with ICC/ANSI A117.1. Such telephones shall be identified by signs containing pictograms of a telephone handset with radiating sound waves complying with ICC/ANSI A117.1.

Exception: Pictograms are not required if every public telephone has volume control.

18-11-1111.4 TTYs. TTYs complying with ICC/ANSI A117.1 shall be provided in accordance with Sections 18-11-1111.4.1 through 18-11-1111.4.9. A required TTY shall not be located at a telephone that is required to be wheelchair accessible unless it is the only telephone in the facility or at the specific location.

18-11-1111.4.1 Bank requirement. If four or more public pay telephones are provided at a bank of telephones, at least one public TTY shall be provided at that bank.

Exception: TTYs are not required at banks of telephones located within 200 feet (60,960 mm) of, and on the same floor as, a bank containing a public TTY.

18-11-1111.4.2 Floor requirement. If one or more public pay telephones are provided on a floor of a public building, at least one public TTY shall be provided on that floor. If four or more public pay telephones are provided on a floor of a private building, at least one public TTY shall be provided on that floor.

18-11-1111.4.3 Building requirement. If one or more public pay telephones are provided in a public building, at least one public TTY shall be provided

in the building. If four or more public pay telephones are provided in a private building, at least one public TTY shall be provided in the building.

18-11-1111.4.4 Site requirement. If four or more public pay telephones are provided on an exterior site, at least one public TTY shall be provided on the site.

18-11-1111.4.5 Rest stops, emergency road stops, and service plazas. If a public pay telephone is provided at a public rest stop, emergency road stop or service plaza, at least one public TTY shall be provided.

18-11-1111.4.6 Hospitals. If a public pay telephone is provided serving a hospital emergency room, hospital recovery room or hospital waiting room, at least one public TTY shall be provided at each location.

18-11-1111.4.7 Transportation facilities. Transportation facilities shall be provided with TTYs in accordance with Sections 18-11-1113.2.5 and 18-11-1114.2 and in addition to the TTYs required by Sections 18-11-1111.4.1 through 18-11-1111.4.4.

18-11-1111.4.8 Assembly occupancies and covered malls. If an interior public pay telephone is provided in a stadium, arena, convention center, covered mall or hotel with a convention center, at least one interior public TTY shall be provided in the facility.

18-11-1111.4.9 Signs. Public TTYs shall be identified by the International Symbol of TTY complying with ICC/ANSI A117.1. Directional signs indicating the location of the nearest public TTY shall be provided at banks of public pay telephones not containing a public TTY. In addition, if signs provide direction to public pay telephones, the signs shall also provide direction to public TTYs. Such signs shall comply with ICC/ANSI A117.1 and shall include the International Symbol of TTY.

18-11-1111.5 Shelves for portable TTYs. If a bank of telephones in the interior of a building consists of three or more public pay telephones, at least one public pay telephone at the bank shall be provided with a shelf and an electrical outlet in accordance with ICC/ANSI A117.1.

18-11-1111.6 Telephone books. If telephone books are provided, at least one of each type shall be provided within the reach ranges required by ICC/ANSI A117.1.

18-11-1112 PUBLIC RIGHTS OF WAY

18-11-1112.1 Required accessible elements. New and replaced elements in the public right-of-way shall be accessible as required by Sections 18-11-1112.2 through 18-11-1112.7.

18-11-1112.2 Sidewalks. If sidewalks are provided, a portion of the sidewalk shall contain a pedestrian route complying with Sections 18-11-1112.2.1 through 18-11-1112.2.5. The pedestrian route shall connect to elements required to be accessible.

18-11-1112.2.1 Clear width. The clear width of the pedestrian route shall be 48 inches (1219 mm) minimum, not including the width of the curb.

18-11-1112.2.2 Cross slope. The cross slope of the pedestrian route shall be 1:48 maximum.

18-11-1112.2.3 Running grade. The running grade of the pedestrian route shall be the minimum feasible consistent with the grade of the adjacent roadway.

18-11-1112.2.4 Surfaces. The surface of the pedestrian route shall be stable, firm and slip resistant. Openings in the surface shall not allow passage of a ½ inch (13 mm) diameter or larger sphere. Elongated openings shall have the long dimension perpendicular to the dominant direction of travel.

18-11-1112.2.5 Gaps at rail crossings. If the pedestrian route crosses rail systems at grade, the gap at the inside edge of each rail shall be the minimum necessary to allow passage of the rail car wheel flanges but shall not exceed 3 inches (76 mm) for tracks that carry freight rail, and 2 ½ inches (64 mm) for all other rails. The surface of the pedestrian route shall be level and flush with the top of the rail at the outside edges and between rails.

18-11-1112.3 Protruding objects. Protruding objects on sidewalks and pedestrian routes shall comply with Section 18-11-1104.6.

18-11-1112.4 Street crossings. Curb ramps complying with ICC/ANSI A117.1 or other approved sidewalk-to-street transitions shall be provided where a pedestrian route crosses a street.

18-11-1112.5 Furniture and fixtures. Furniture and fixtures for use by pedestrians which are located on or adjacent to a sidewalk shall comply with Sections 18-11-1112.5.1 through 18-11-1112.5.7.

Exception: This section shall not apply if the primary purpose of the furniture or fixture is art.

18-11-1112.5.1 Clear floor or ground space. A clear floor or ground space complying with

ICC/ANSI A117.1 shall be provided at the furniture or fixture and shall be connected to the pedestrian route. The clear floor or ground space may overlap the pedestrian route 12 inches (305 mm) maximum.

18-11-1112.5.2 Drinking fountains. If provided, drinking fountains shall comply with Section 18-11-1109.5.

18-11-1112.5.3 Public toilet facilities. If provided, permanent single-user and multiple-user public toilet facilities, and portable or temporary multiple-user toilet facilities and individual portable or temporary single-user toilet facilities at a single location shall comply with Section 18-11-1109.2. Multiple portable or temporary single-user toilet facilities clustered at a single location shall comply with Section 18-11-1109.2.4.

18-11-1112.5.4 Public telephones. If provided, single public telephones shall comply with Sections 18-11-1111.2 and 18-11-1111.4. If a bank of telephones is provided, at least one telephone shall comply with Section 18-11-1111.2 and at least one telephone shall comply with Section 18-11-1111.4. All public telephones shall comply with Section 18-11-1111.3.

18-11-1112.5.5 Tables, counters and work surfaces. If provided, seating at tables, counters and work surfaces shall comply with Section 18-11-1109.11.

18-11-1112.5.6 Sales and service counters. If provided, sales and service counters shall comply with Section 18-11-1109.12.3.

18-11-1112.5.7 Benches. If provided, benches shall comply with ICC/ANSI A117.1.

18-11-1112.6 Bus stops and terminals. Bus stops and terminals shall comply with Sections 18-11-1112.6.1 through 18-11-1112.6.4.

18-11-1112.6.1 Bus stop boarding and alighting areas. If new bus stop boarding and alighting areas are constructed at bus stops, bays or other areas where a lift or ramp is to be deployed, those areas shall comply with Sections 18-11-1112.6.1.1 through 18-11-1112.6.1.4.

18-11-1112.6.1.1 Surface. Bus stop boarding and alighting areas shall have a firm, stable and slip resistant surface.

18-11-1112.6.1.2 Dimensions. Bus stop boarding and alighting areas shall have a clear length of 96 inches (2438 mm) minimum, measured perpendicular to the curb or vehicle roadway edge, and a clear width of 60 inches

(1524 mm) minimum, measured parallel to the vehicle roadway.

18-11-1112.6.1.3 Connection. Bus stop boarding and alighting areas shall be connected to streets, sidewalks or pedestrian paths by an accessible route complying with Section 18-11-1104.

18-11-1112.6.1.4 Slope. Parallel to the roadway, the slope of the bus stop boarding and alighting area shall be the same as the roadway to the maximum extent practicable. Perpendicular to the roadway the slope of the bus stop boarding and alighting area shall be 1:48 maximum.

18-11-1112.6.2 Bus shelters. If provided, new or replaced bus shelters shall provide a minimum clear floor or ground space complying with ICC/ANSI A117.1 entirely within the shelter. Bus shelters shall be connected by an accessible route to the boarding and alighting area required by Section 18-11-1112.6.1.

18-11-1112.6.3 Signs. New bus route identification signs shall comply with the finish and contrast requirements of ICC/ANSI A117.1 and, to the maximum extent practicable, with the visual character requirements of ICC/ANSI A117.1.

Exception: Bus schedules, timetables and maps that are posted at the bus stop or bus bay are not required to comply with this requirement.

18-11-1112.6.4 Bus stop siting. Bus stop sites shall be chosen such that, to the maximum extent practicable, the areas where lifts or ramps are to be deployed comply with Sections 18-11-1112.6.1 and 18-11-1112.6.2.

18-11-1112.7 Waterfront walkways. New and replaced elements and facilities along or serving waterfront developments and waterfront recreation facilities shall comply with Sections 18-11-1112.7.1 through 18-11-1112.7.3. Recreation facilities shall comply with Section 18-11-1116.

18-11-1112.7.1 Pedestrian route. A pedestrian route complying with Section 18-11-1112.2 shall be provided if pedestrian circulation paths are provided.

18-11-1112.7.2 Connection to public way. An accessible route complying with Section 18-11-1104 shall be provided at all points of pedestrian access from a public way to the waterfront walkway.

Exception: If no more than two points of pedestrian access are provided to the waterfront walkway from the same public way, and the points of access are closer than 600 feet to each other, a minimum of one accessible route shall be required from that public way. If three or more points of pedestrian access are provided from the same public way, the accessible routes shall not be required to be closer than 600 feet (183 m) to each other.

18-11-1112.7.3 Connection to facilities. The accessible route required by Section 18-11-1112.7.2 shall connect to the pedestrian route required by Section 18-11-1112.7.1 and to accessible buildings and facilities on the waterfront. The accessible route shall also connect to public entrances to passenger vessel embarkation and disembarkation points.

18-11-1113 FIXED TRANSPORTATION FACILITIES AND STATIONS

18-11-1113.1 General. Fixed transportation facilities and stations shall comply with the applicable provisions of Sections 18-11-1113.2 through 18-11-1113.4.

18-11-1113.2 New construction. New stations in rapid rail, light rail, commuter rail, intercity bus, intercity rail, high speed rail and other fixed guideway systems shall comply with Sections 18-11-1113.2.1 through 18-11-1113.2.9.

18-11-1113.2.1 Station entrances. If different entrances to a station serve different transportation fixed routes or groups of fixed routes, at least one entrance serving each group or route shall comply with Section 18-11-1104 and ICC/ANSI A117.1. Accessible entrances shall, to the maximum extent practicable, coincide with those used by the majority of the general public. In below ground subway stations, at least one entrance to each station shall comply with Section 18-11-1104 and ICC/ANSI A117.1.

18-11-1113.2.2 Signs. Signage in fixed transportation facilities and stations shall comply with Sections 18-11-1113.2.2.1 through 18-11-1113.2.2.4.

18-11-1113.2.2.1 Tactile signs. If signs are provided at entrances to stations identifying the station or the entrance, or both, at least one sign at each entrance shall be tactile and shall comply with the requirements of ICC/ANSI A117.1 for visual and tactile characters. Such signs shall be placed in uniform locations at entrances within the transit system to the maximum extent practicable.

Exception: If the station has no defined entrance but signs are provided, the tactile signs shall be placed in a central location.

18-11-1113.2.2.2 Identification signs. Stations covered by this section shall have visual identification signs complying with ICC/ANSI A117.1. Signs shall be clearly visible and within the sightlines of a standing or sitting passenger from within the train on both sides of the station when not obstructed by another train.

18-11-1113.2.2.3 Routes and destinations. Lists of stations, routes and destinations served by the station which are located on boarding areas, platforms or mezzanines shall be visual signs complying with ICC/ANSI A117.1. A minimum of one tactile sign identifying the specific station and complying with the requirements of ICC/ANSI A117.1 for visual and tactile characters shall be provided on each platform or boarding area. Signs covered by this provision shall, to the maximum extent practicable, be placed in uniform locations within the transit system.

Exception: If sign space is limited, track numbers and characters shall not be required to exceed 3 inches (76 mm).

18-11-1113.2.2.4 Directions and information. Visual directions and information shall be provided at entrances in accordance with Section 18-11-1110.3(5).

18-11-1113.2.3 Fare machines. Self-service fare vending, collection and adjustment machines shall comply with ICC/ANSI A117.1. If self-service fare vending, collection or adjustment machines are provided for the use of the general public, at least one accessible machine of each type provided shall be provided at each accessible point of entry or exit.

18-11-1113.2.4 Rail-to-platform height. In stations covered by this section, rail-to-platform height shall be coordinated with the floor height of new vehicles so that the vertical difference, measured when the vehicle is at rest, is within plus or minus 0.625 inch (16 mm) under normal passenger load conditions. For rapid rail, light rail, commuter rail, high speed rail and intercity rail systems in new stations, the horizontal gap, measured when the new vehicle is at rest, shall be 3 inches (76 mm) maximum. For slow-moving automated guideway “people mover” transit systems, the horizontal gap in new stations shall be 1 inch (25 mm) maximum.

Exceptions:

1. For existing vehicles operating in new light rail, commuter rail, high speed rail and intercity rail stations, the maximum vertical difference with respect to the new platform shall be plus or minus 1.5 inches (38 mm).
2. In light rail, commuter rail and intercity rail systems where it is not operationally or structurally feasible to meet the horizontal gap or vertical difference requirements, mini-high platforms, car-borne or platform-mounted lifts, ramps or bridge plates, or similar manually deployed devices meeting the applicable requirements of 36 CFR Part 1192 or 49 CFR Part 38 shall suffice.

18-11-1113.2.5 TTYs. If a public pay telephone is provided in a transit facility (as defined by the Department of Transportation) at least one public TTY complying with ICC/ANSI A117.1 shall be provided in the station. If four or more public pay telephones serve a particular entrance to a rail station, at least one TTY telephone complying with ICC/ANSI A117.1 shall be provided to serve that entrance.

18-11-1113.2.6 Track crossings. If it is necessary to cross tracks to reach boarding platforms, the route surface shall be level with the rail top at the outer edge and between the rails, except for a 25 inch (64 mm) maximum gap on the inner edge of each rail to permit passage of wheel flanges. If gap reduction is not practicable, an above-grade or below-grade accessible route shall be provided.

18-11-1113.2.7 Public address systems. If public address systems are provided to convey information to the public in terminals, stations or other fixed facilities, a means of conveying the same or equivalent information to persons with hearing loss or who are deaf shall be provided.

18-11-1113.2.8 Clocks. If clocks are provided for use by the general public, the clock face shall be uncluttered so that its elements are clearly visible. Hands, numerals and digits shall contrast with the background either light-on-dark or dark-on-light. If clocks are mounted overhead, numerals and digits shall comply with the requirements of ICC/ANSI A117.1 for visual characters.

18-11-1113.2.9 Escalators. If provided, escalators shall have a clear width of 32 inches (813 mm) minimum.

18-11-1113.3 Existing facilities: key stations. Rapid, light and commuter rail key stations, as defined under criteria established by the Department of Transportation in Subpart C of 49 CFR Part 37, and existing intercity

rail stations shall comply with Sections 18-11-1113.3.1 through 18-11-1113.3.3.

18-11-1113.3.1 Accessible route. At least one accessible route from an accessible entrance to those areas necessary for use of the transportation system shall be provided. The accessible route shall include the features specified in Section 18-11-1113.2, except that escalators shall not be required to comply with Section 18-11-1113.2.9. If technical infeasibility in existing stations requires the accessible route to lead from the public way to a paid area of the transit system, an accessible fare collection machine complying with Section 18-11-1113.2.3 shall be provided along such accessible route.

18-11-1113.3.2 Rail-to-platform height. In light rail and commuter rail key stations, the platform or a portion thereof and the vehicle floor shall be coordinated so that the vertical difference, measured when the vehicle is at rest, within plus or minus 1.5 inches (38 mm) under normal passenger load conditions, and the horizontal gap, measured when the vehicle is at rest, is 3 inches (76 mm) maximum for at least one door of each vehicle or car required to be accessible by 49 CFR Part 37.

Exceptions:

1. Existing vehicles retrofitted to meet the requirements of 49 CFR Part 37.93 (one-car-per-train rule) shall be coordinated with the platform such that, for at least one door, the vertical difference between the vehicle floor and the platform, measured when the vehicle is at rest with 50 percent normal passenger capacity, is within plus or minus 2 inches (51 mm) and the horizontal gap is 4 inches (102 mm) maximum.
2. If it is not structurally or operationally feasible to meet the horizontal gap or vertical difference requirements, mini-high platforms, car-borne or platform mounted lifts, ramps or bridge plates, or similar manually deployed devices, meeting the applicable requirements of 36 CFR Part 1192, shall suffice.

18-11-1113.3.3 Direct connections. New direct connections to commercial, retail or residential facilities shall, to the maximum extent feasible, have an accessible route complying with Section 18-11-1117.3.4 from the point of connection to boarding platforms and transportation system elements used by the public. Any elements provided to facilitate future direct connections shall be on an accessible route connecting boarding platforms and transportation system elements used by the public.

18-11-1113.4 Existing facilities: alterations. For the purpose of complying with Section 18-11-1117.3.4, an area of primary function shall be as defined by applicable provisions of 49 CFR Part 37.43(c) or 28 CFR Part 36.403.

18-11-1114 AIRPORTS

18-11-1114.1 New construction. New construction of airports shall comply with Sections 18-11-1114.2 through 18-11-1114.4.

18-11-1114.2 TTYs. If public pay telephones are provided, at least one TTY shall be provided in compliance with ICC/ANSI A117.1. Additionally, if four or more public pay telephones are located in a main terminal outside the security areas, or in a concourse within the security areas, or in a baggage claim area in a terminal, at least one public TTY complying with ICC/ANSI A117.1 shall also be provided in each such location.

18-11-1114.3 Terminal information systems. Terminal information systems that broadcast information to the general public through a public address system shall provide a means to provide the same or equivalent information to persons with a hearing loss or who are deaf.

18-11-1114.4 Clocks. If clocks are provided for use by the general public, the clock face shall be uncluttered so that its elements are clearly visible. Hands, numerals and digits shall contrast with their background either light-on-dark or dark-on-light. If clocks are mounted overhead, numerals and digits shall comply with the requirements of ICC/ANSI A117.1 for visual characters.

18-11-1115 PLAY AREAS

18-11-1115.1 General. Newly designed and newly constructed play areas for children ages 2 and over and altered portions of existing play areas shall comply with the applicable provisions of this chapter, except as modified or otherwise provided by this section. If separate play areas are provided within a site for specified age groups, each play area shall comply with this section. If play areas are designed or constructed in phases, this section shall be applied so that when each successive addition is completed, the entire play area complies with all the applicable provisions of this section.

Exceptions:

1. Play areas located in family child care facilities where the proprietor actually resides shall not be required to comply with this section.
2. If play components are relocated in existing play areas for the purpose of creating safe use zones, this section shall not apply; provided that the ground surface is not changed or extended for more than one use zone.

3. If play components are altered and the ground surface is not altered, the ground surface shall not be required to comply with Section 18-11-1115.7, unless required by Section 18-11-1117.3.4.
4. The provisions of Sections 18-11-1115.1 through 18-11-1115.7 shall not apply to amusement attractions.
5. Compliance with Section 18-11-1104.6 shall not be required within the boundary of the play area.
6. Stairs that are part of play components shall not be required to comply with Chapter 13-160.

18-11-1115.2 Ground level play components. Ground level play components shall be provided in the number and types required by Sections 18-11-1115.2.1 and 18-11-1115.2.2. Ground level play components that are provided to comply with Section 18-11-1115.2.1 may be permitted to satisfy the number required by Section 18-11-1115.2.2, if the minimum required types of play components are provided. If more than one ground level play component required by Sections 18-11-1115.2.1 and 18-11-1115.2.2 is provided, the play components shall be integrated in the play area.

18-11-1115.2.1 General. If ground level play components are provided, at least one of each type provided shall be located on an accessible route complying with Section 18-11-1115.4 and the play component shall comply with Section 18-11-1115.6.

18-11-1115.2.2 Additional number and types. If elevated play components are provided, ground level play components shall be provided in accordance with Table 18-11-1115.2.2. Ground level play components required by Section 18-11-1115.2.2 shall be located on an accessible route complying with Section 18-11-1115.4 and the play component shall comply with Section 18-11-1115.6.

Exception: If at least 50 percent of the elevated play components are connected by a ramp, and if at least 3 of the elevated play components connected by the ramp are different types of play components, Section 18-11-1115.2.2 shall not apply.

TABLE 18-11-1115.2.2 NUMBER AND TYPES OF GROUND LEVEL PLAY COMPONENTS REQUIRED TO BE ON AN ACCESSIBLE ROUTE

NUMBER OF ELEVATED PLAY COMPONENTS PROVIDED	MINIMUM NUMBER OF GROUND LEVEL PLAY COMPONENTS REQUIRED TO	MINIMUM NUMBER OF DIFFERENT TYPES OF GROUND LEVEL PLAY
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	BE ACCESSIBLE ROUTE	ON COMPONENTS REQUIRED TO BE ON ACCESSIBLE ROUTE
1	Not applicable	Not applicable
2 to 4	1	1
5 to 7	2	2
8 to 10	3	3
11 to 13	4	3
14 to 16	5	3
17 to 19	6	3
20 to 22	7	4
23 to 25	8	4
More than 25	8 plus 1 for each additional 3 over 25, or fraction thereof	5

18-11-1115.3 Elevated play components. If elevated play components are provided, at least 50 percent of the components shall be located on an accessible route complying with Section 18-11-1115.4. Elevated play components connected by a ramp shall comply with Section 18-11-1115.6.

18-11-1115.4 Accessible routes. At least one accessible route complying with Section 18-11-1104, as modified by Sections 18-11-1115.4.1 through 18-11-1115.4.5, shall be provided.

Exceptions:

1. Transfer systems complying with Section 18-11-1115.5 may connect elevated play components, except if 20 or more elevated play components are provided in which case no more than 25 percent of the elevated play components shall be connected by transfer systems.
2. If transfer systems are provided, an elevated play component may connect to another elevated play component in lieu of an accessible route.
3. Platform lifts may be used as part of an accessible route.

18-11-1115.4.1 Location. Accessible routes shall be located within the boundary of the play area and shall connect ground level play components as required by Sections 18-11-1115.2.1 and 18-11-1115.2.2 and elevated play components as required by Section 18-11-1115.3, including entry and exit points of the play components.

18-11-1115.4.2 Protrusions. Objects shall not protrude into ground level accessible routes at or below 80 inches (2032 mm) above the ground or floor surface.

18-11-1115.4.3 Clear width. The clear width of accessible routes within play areas shall comply

with Sections 18-11-1115.4.3.1 and 18-11-1115.4.3.2.

18-11-1115.4.3.1 Ground level. The clear width of accessible routes at ground level shall be 60 inches (1524 mm) minimum.

Exceptions:

1. In play areas less than 1,000 square feet (93 m²), the clear width of accessible routes may be 44 inches (1118 mm) minimum, provided that at least one circular or T-shaped wheelchair turning space is provided if the restricted accessible route exceeds 30 feet (9144 mm) in length.
2. The clear width of accessible routes may be 36 inches (914 mm) minimum for a distance of 60 inches (1524 mm) maximum, provided that multiple reduced width segments are separated by segments that are 60 inches (1524 mm) minimum in width and 60 inches (1524 mm) minimum in length.

18-11-1115.4.3.2 Elevated. The clear width of accessible routes connecting elevated play components shall be 36 inches (914 mm).

Exceptions:

1. The clear width of accessible routes connecting elevated play components may be reduced to 32 inches (813 mm) minimum for a distance of 24 inches (610 mm) maximum provided that reduced width segments are separated by segments that are 48 inches (1219 mm) minimum in length and 36 inches (914 mm) minimum in width.
2. The clear width of transfer systems connecting elevated play components may be 24 inches (610 mm) minimum.

18-11-1115.4.4 Ramp slope and rise. Any part of an accessible route with a slope greater than 1:20 shall be considered a ramp and shall comply with ICC/ANSI A117.1, as modified by Sections 18-11-1115.4.4.1 and 18-11-1115.4.4.2.

18-11-1115.4.4.1 Ground level. The maximum slope for ramps connecting ground level play components within the boundary of a play area shall be 1:16.

18-11-1115.4.4.2 Elevated. If a ramp connects elevated play components, the maximum rise of any ramp run shall be 12 inches (305 mm).

18-11-1115.4.5 Handrails. If required on ramps, handrails shall comply with the provisions for ramps, as modified by Sections 18-11-1115.4.5.1 and 18-11-1115.4.5.2.

Exceptions:

1. Handrails shall not be required at ramps located within ground level use zones.
2. Handrail extensions shall not be required.

18-11-1115.4.5.1 Handrail gripping surface. Handrails shall have a diameter or width of 0.95 inch (24 mm) minimum to 1.55 inches (39 mm) maximum, or the shape shall provide an equivalent gripping surface.

18-11-1115.4.5.2 Handrail height. The top of handrail gripping surfaces shall be 20 inches (508 mm) minimum to 28 inches (711 mm) maximum above the ramp surface.

18-11-1115.5 Transfer systems. If transfer systems are provided to connect elevated play components, the transfer systems shall comply with Sections 18-11-1115.5.1 and 18-11-1115.5.2.

18-11-1115.5.1 Transfer platforms. Transfer platforms complying with Sections 18-11-1115.5.1.1 through 18-11-1115.5.1.4 shall be provided if transfer is intended to be from a wheelchair or other mobility device.

18-11-1115.5.1.1 Size. Platforms shall have a level surface 14 inches (356 mm) minimum in depth and 24 inches (610 mm) minimum in width.

18-11-1115.5.1.2 Height. Platform surfaces shall be 11 inches (279 mm) minimum to 18 inches (457 mm) maximum above the ground or floor surface.

18-11-1115.5.1.3 Transfer space. A clear floor or ground space positioned for a parallel or forward approach shall be centered on the 48 inches (1219 mm) long dimension parallel to the 24 inches (610 mm) minimum long unobstructed side of the transfer platform.

18-11-1115.5.1.4 Transfer supports. A means of support for transferring shall be provided.

18-11-1115.5.2 Transfer steps. Transfer steps complying with Sections 18-11-1115.5.2.1 through 18-11-1115.5.2.3 shall be provided if movement is intended from a transfer platform to a level with elevated play components required to be located on an accessible route.

18-11-1115.5.2.1 Size. Transfer steps shall have a level surface 14 inches (356 mm)

minimum in depth and 24 inches (610 mm) minimum in width.

18-11-1115.5.2.2 Height. Each transfer step shall be 8 inches (203 mm) high maximum.

18-11-1115.5.2.3 Transfer supports. A means of support for transferring shall be provided.

18-11-1115.6 Play components. Ground level play components located on accessible routes and elevated play components connected by ramps shall comply with Sections 18-11-1115.6.1 through 18-11-1115.6.5.

18-11-1115.6.1 Maneuvering space. Maneuvering space complying with ICC/ANSI A117.1 shall be provided on the same level as the play components. The maneuvering space required for a swing shall be located immediately adjacent to the swing.

18-11-1115.6.2 Clear floor or ground space. Clear floor or ground space shall be provided at the play components and shall be 30 inches (762 mm) by 48 inches (1219 mm) minimum.

18-11-1115.6.3 Height and clearances of play tables. If play tables are provided, knee clearance 24 inches (610 mm) high minimum, 17 inches deep (432 mm) minimum and 30 inches (762 mm) wide minimum shall be provided. The tops of rims, curbs or other obstructions shall be 31 inches (787 mm) high maximum.

Exception: Play tables designed or constructed primarily for children ages 5 and under shall not be required to provide knee clearance if the clear floor or ground space required by Section 18-11-1115.6.2 is arranged for a parallel approach and if the rim surface is 31 inches (787 mm) high maximum.

18-11-1115.6.4 Height of entry points and seats. If a play component requires transfer to the entry point or seat, the entry point or seat shall be 11 inches (279 mm) minimum and 24 inches (610 mm) maximum above the clear floor or ground space.

Exception: The entry point of a slide shall not be required to comply with Section 18-11-1115.6.4.

18-11-1115.6.5 Transfer supports. If a play component requires transfer to the entry point or seat, a means of support for transferring shall be provided.

18-11-1115.7 Ground surfaces. Ground surfaces along accessible routes, clear floor or ground spaces, and maneuvering spaces within play areas shall be stable,

firm and slip resistant and shall comply with Sections 18-11-1115.7.1 and 18-11-1115.7.2.

18-11-1115.7.1 Standard. Ground surfaces shall comply with ASTM F 1951. Ground surfaces shall be inspected and maintained regularly and frequently to ensure continued compliance with ASTM F 1951.

18-11-1115.7.2 Use zones. If located within use zones, ground surfaces shall comply with ASTM F 1292.

18-11-1115.8 Soft contained play structures. Soft contained play structures shall comply with Section 18-11-1115.8.1.

18-11-1115.8.1 Accessible routes to entry points. If three or fewer entry points to a soft contained play structure are provided, at least one entry point shall be located on an accessible route. If four or more entry points are provided, at least two entry points shall be located on an accessible route. Accessible routes shall comply with Section 18-11-1104.

Exception: Transfer systems complying with Section 18-11-1115.5 or platform lifts may be used as part of an accessible route.

18-11-1116 RECREATION FACILITIES

18-11-1116.1 General. Newly designed and constructed and altered recreation facilities shall comply with the applicable provisions of this chapter, except as modified or otherwise provided by this section.

Exception: Facilities that are exempted by Section 18-11-1103.2.14.

18-11-1116.2 Amusement rides. Newly designed or newly constructed and altered amusement rides shall be provided with accessibility features in accordance with Sections 18-11-1116.2.1 through 18-11-1116.2.7.4.

Exceptions:

1. Mobile or portable amusement rides shall not be required to comply with this section.
2. Amusement rides that are controlled or operated by the rider shall comply only with Sections 18-11-1116.2.3 and 18-11-1116.2.4.
3. Amusement rides designed primarily for children, where children are assisted on and off the ride by an adult, shall comply with Sections 18-11-1116.2.3 and 18-11-1116.2.4.
4. Amusement rides without amusement ride seats shall comply only with Sections 18-11-1116.2.3 and 18-11-1116.2.4.

18-11-1116.2.1 Alterations to amusement rides. A modification to an existing amusement ride is an

alteration and shall comply with this section if one or more of the following conditions apply:

1. The amusement ride's structural or operational characteristics are changed to the extent that the ride's performance differs from that specified by the manufacturer or the original design criteria; or
2. The load and unload area of the amusement ride is newly designed and constructed.

18-11-1116.2.2 Number required. Each amusement ride shall provide at least one wheelchair space complying with Section 18-11-1116.2.6, or at least one amusement ride seat designed for transfer complying with Section 18-11-1116.2.7, or at least one transfer device complying with Section 18-11-1116.2.7.

18-11-1116.2.3 Accessible route. When in the load and unload position, amusement rides required to comply with this section shall be served by an accessible route complying with ICC/ANSI A117.1. Any part of an accessible route serving amusement rides with a slope greater than 1:20 shall be considered a ramp and shall comply with the ramp requirements of this code and ICC/ANSI A117.1.

Exceptions:

1. The maximum allowable slope shall not apply in the load and unload areas or on the amusement ride if compliance is structurally or operationally infeasible, provided that the slope of the ramp does not exceed 1:8.
2. Handrails shall not be required in the load and unload areas or on the amusement ride if compliance is structurally or operationally infeasible.
3. Limited-use/limited-application elevators and platform lifts complying with ICC/ANSI A117.1 may be part of an accessible route serving the load and unload areas.

18-11-1116.2.4 Load and unload areas. Load and unload areas serving amusement rides required to comply with this section shall provide a maneuvering space complying with ICC/ANSI A117.1. The maneuvering space shall have a slope not steeper than 1:48.

18-11-1116.2.5 Signage. Signage shall be provided at the entrance of the queue or waiting line for each amusement ride to identify the type of access provided (e.g., wheelchair spaces, amusement ride seats designed for transfer, transfer device or a combination). If an accessible unload area also

serves as the accessible load area, signage shall be provided at the entrance to the queue or waiting line indicating the location of the accessible load and unload areas.

18-11-1116.2.6 Amusement rides with wheelchair spaces. Amusement rides with wheelchair spaces shall comply with Sections 18-11-1116.2.6.1 through 18-11-1116.2.6.5.1.

18-11-1116.2.6.1 Floor or ground surface.

The floor or ground surface of wheelchair spaces shall comply with Sections 18-11-1116.2.6.1.1 and 18-11-1116.2.6.1.2.

18-11-1116.2.6.1.1 Slope. The floor or ground surface of wheelchair spaces shall have a slope not steeper than 1:48 when in the load and unload position and shall be stable and firm.

18-11-1116.2.6.1.2 Gaps. Floors of amusement rides with wheelchair spaces and floors of load and unload areas shall be coordinated so that, when the amusement rides are at rest in the load and unload position, the vertical difference between the floors shall be within or plus or minus 5/8 inches (16 mm) and the horizontal gap shall be not greater than 3 inches (75 mm) under normal passenger load conditions.

Exception: If compliance is not operationally or structurally feasible, ramps, bridge plates or similar devices complying with the applicable requirements of 36 CFR 1192.83(c) shall be provided.

18-11-1116.2.6.2 Clearances. Clearances for wheelchair spaces shall comply with Sections 18-11-1116.2.6.2.1 through 18-11-1116.2.6.2.3.

Exceptions:

1. If provided, securement devices may overlap required clearances.
2. Wheelchair spaces may be mechanically or manually repositioned.
3. Wheelchair spaces shall not be required to comply with the clear floor or ground space requirements of ICC/ANSI A117.1.

18-11-1116.2.6.2.1 Width and length. Wheelchair spaces shall provide a clear width of 30 inches (762 mm) minimum and a clear length

of 48 inches (1219 mm) minimum measured to 9 inches (229 mm) minimum above the floor surface.

18-11-1116.2.6.2.2 Wheelchair spaces – side entry. If the wheelchair space can be entered only from the side, the ride shall be designed to permit sufficient maneuvering space for individuals using a wheelchair or mobility device to enter and exit the ride.

18-11-1116.2.6.2.3 Protrusions in wheelchair spaces. Objects are permitted to protrude a distance of 6 inches (152 mm) maximum along the front of the wheelchair space if the object is located 9 inches (229 mm) minimum and 27 inches (686 mm) maximum above the floor or ground surface of the wheelchair space. Objects are permitted to protrude a distance of 25 inches (635 mm) maximum along the front of the wheelchair space, if the object is located more than 27 inches (686 mm) above the floor or ground surface of the wheelchair space.

18-11-1116.2.6.3 Opening. If openings are provided to access wheelchair spaces on amusement rides, the entry shall provide a 32-inch (813 mm) minimum clear opening.

18-11-1116.2.6.4 Approach. One side of the wheelchair space shall adjoin an accessible route.

18-11-1116.2.6.5 Companion seats. If the interior width of the amusement ride is greater than 45 inches (1143 mm), and seating is provided for more than one rider, and the wheelchair is not required to be centered within the amusement ride, a companion seat shall be provided for each wheelchair space.

18-11-1116.2.6.5.1 Shoulder-to-shoulder seating. If an amusement ride provides shoulder-to-shoulder seating, companion seats shall be shoulder-to-shoulder with the adjacent wheelchair space.

Exception: If shoulder-to-shoulder companion seating is not operationally or structurally feasible, compliance with this provision shall be required to the maximum extent feasible.

18-11-1116.2.7 Amusement ride seats designed

for transfer or for use with a transfer device. Amusement ride seats designed for transfer or for use with a transfer device shall comply with Sections 18-11-1116.2.7.1 through 18-11-1116.2.7.4 when positioned for loading and unloading.

18-11-1116.2.7.1 Clear floor or ground space. Clear floor or ground space complying with ICC/ANSI A117.1 shall be provided in the load and unload area adjacent to the amusement ride seats designed for transfer or to the transfer devices.

18-11-1116.2.7.2 Transfer height. The height of the amusement ride seats or the transfer device seats shall be 14 inches (356 mm) minimum to 19 inches (483 mm) maximum measured above the load and unload surface.

18-11-1116.2.7.3 Transfer entry. If openings are provided for transfer to amusement ride seats, the space shall be designed to provide clearance for transfer from a wheelchair, mobility device or transfer device to the amusement ride seat.

18-11-1116.2.7.4 Wheelchair storage space. Wheelchair storage spaces complying with the clear floor or ground space requirements of ICC/ANSI A117.1 shall be provided in or adjacent to unload areas for each required amusement ride seat designed for transfer or for a transfer device and shall not overlap any required means of egress or accessible route.

18-11-1116.3 Boating facilities. Newly designed or newly constructed and altered boating facilities shall be provided with accessibility features in accordance with Sections 18-11-1116.3.1 through 18-11-1116.3.4.2.

18-11-1116.3.1 Accessible route. Accessible routes, including gangways that are part of accessible routes, shall comply with ICC/ANSI A117.1.

Exceptions:

1. If an existing gangway or series of gangways is replaced or altered, an increase in the length of the gangway is not required to comply with this section, unless required by Section 18-11-1117.3.4.
2. The maximum rise specified for ramps in ICC/ANSI A117.1 shall not apply to gangways.
3. If the total length of the gangway or series of gangways serving as part of a required accessible route is at least 80 feet (24 384 mm), the maximum slope specified for ramps in ICC/ANSI A117.1 shall not apply to the gangways.

4. In facilities containing fewer than 25 boat slips and where the total length of the gangways or series of gangways serving as part of a required accessible route is at least 30 feet (9144 mm), the maximum slope specified for ramps in ICC/ANSI A117.1 shall not apply to the gangways.
5. If gangways connect to transition plates, landings specified for ramps in ICC/ANSI A117.1 shall not be required.
6. If gangways and transition plates connect and are required to have handrails, handrail extensions specified for ramps in ICC/ANSI A117.1 shall not be required. If handrail extensions are provided on gangways or transition plates, such extensions are not required to be parallel with the ground or floor surface.
7. The cross slope of gangways, transition plates and floating piers that are part of an accessible route shall be 1:50 maximum measured in the static position.
8. Limited-use/limited-application elevators or platform lifts complying with ICC/ANSI A117.1 shall be permitted in lieu of gangways complying with the requirements of ICC/ANSI A117.1 for accessible routes.

18-11-1116.3.2 Boat slips: minimum number. If boat slips are provided, boat slips complying with Section 18-11-1116.3.4 shall be provided in accordance with Table 18-11-1116.3.2. If the number of boat slips is not identified, each 40 feet (12 192 mm) of boat slip edge provided along the perimeter of the pier shall be counted as one boat slip for the purpose of this section.

Table 18-11-1116.3.2 Accessible Boat Slips

Total Boat Slips in Facility	Minimum Number of Required Accessible Boat Slips
1 to 25	1
26 to 50	2
51 to 100	3
101 to 150	4
151 to 300	5
301 to 400	6
401 to 500	7
501 to 600	8
601 to 700	9
701 to 800	10
801 to 900	11
901 to 1000	12
1001 and over	12, plus 1 for each 100 or fraction thereof.

18-11-1116.3.2.1 Dispersion. Accessible boat slips shall be dispersed throughout the various types of slips provided. This

provision does not require an increase in the minimum number of boat slips required to be accessible.

18-11-1116.3.3 Boarding piers at boat launch ramps. If boarding piers are provided at boat launch ramps, at least 5 percent, but not less than one, of the boarding piers shall comply with this section and shall be served by an accessible route complying with ICC/ANSI A117.1.

Exceptions:

1. Accessible routes serving floating boarding piers may use exceptions 1, 2, 5, 6, 7, and 8 in Section 18-11-1116.3.1.
2. If the total length of the gangway or series of gangways serving as part of a required accessible route is at least 30 feet (9144 mm), the maximum allowable slope specified by ICC/ANSI A117.1 for ramps shall not apply to the gangways.
3. If the accessible route serving a floating boarding pier or skid pier is located within a boat launch ramp, the portion of the accessible route located within the boat launch ramp shall not be required to comply with the ramp requirements of ICC/ANSI A117.1.

18-11-1116.3.3.1 Boarding pier clearances. The entire length of the piers shall comply with Section 18-11-1116.3.4.

18-11-1116.3.4 Accessible boat slips. Accessible boat slips shall comply with Sections 18-11-1116.3.4.1 and 18-11-1116.3.4.2.

18-11-1116.3.4.1 Clearances. Accessible boat slips shall be served by clear pier space 60 inches (1524 mm) wide minimum and at least as long as the accessible boat slips. Every 10 feet (3048 mm) maximum of linear pier edge serving the accessible boat slips shall contain at least one continuous clear opening 60 inches (1524 mm) minimum in width.

Exceptions:

1. The width of the clear pier space may be 36 inches (914 mm) minimum for a length of 24 inches (610 mm) maximum, provided that multiple 36 inch (915 mm) wide segments are separated by segments that are 60 inches (1524 mm) minimum clear in width and 60 inches (1524 mm) minimum clear in length.
2. Edge protection 4 inches (102 mm) high maximum and 2 inches (51 mm)

deep maximum shall be permitted at the continuous clear openings.

3. In alterations to existing facilities, clear pier space may be located perpendicular to the boat slip and shall extend the width of the boat slip, if the facility has at least one accessible boat slip complying with this section, and further compliance with this section would result in a reduction in the number of boat slips available or result in a reduction of the widths of existing slips.

18-11-1116.3.4.2 Cleats and other boat securement devices. Cleats and other boat securement devices shall not be required to comply with the reach range requirements of ICC/ANSI A117.1.

18-11-1116.4 Fishing piers and platforms. Newly designed or newly constructed and altered fishing piers and platforms shall be provided with accessibility features in accordance with Sections 18-11-1116.4.1 through 18-11-1116.4.4.

18-11-1116.4.1 Accessible route. Accessible routes serving fishing piers and platforms, including gangways that are part of accessible routes, shall comply with ICC/ANSI A117.1.

Exceptions:

1. Accessible routes serving floating fishing piers and platforms may use exceptions 1, 2, 5, 6, 7, and 8 in Section 18-11-1116.3.1.
2. If the total length of the gangway or series of gangways serving as part of a required accessible route is at least 30 feet (9144 mm), the maximum allowable slope specified by ICC/ANSI A117.1 for ramps shall not apply to the gangways.

18-11-1116.4.2 Railings. If railings, guards or handrails are provided, they shall comply with Sections 18-11-1116.4.2.1 through 18-11-1116.4.2.3.

18-11-1116.4.2.1 Edge protection. Edge protection shall be provided and shall extend 2 inches (51 mm) minimum above the ground or deck surface.

Exception: If the railing, guard or handrail is 34 inches (864 mm) or less above the ground or deck surface, edge protection shall not be required if the deck surface extends 12 inches (305 mm) minimum beyond the inside face of the railing. Toe clearance shall be 9 inches (229 mm) minimum above the ground or deck surface beyond the railing. Toe clearance

shall be 30 inches (762 mm) minimum wide.

18-11-1116.4.2.2 Height. At least 25 percent of the railings, guards, or handrails shall be 34 inches (864 mm) maximum above the ground or deck surface.

Exception: This provision shall not apply to that portion of a fishing pier or platform if a guard that is required to comply with the guard height and guard opening limitations of Chapter 13-160 is provided.

18-11-1116.4.2.3 Dispersion. Railings required to comply with Section 18-11-1116.4.2.2 shall be dispersed throughout a fishing pier or platform.

18-11-1116.4.3 Clear floor or ground space. At least one clear floor or ground space complying with ICC/ANSI A117.1 shall be provided at the location where the railing height required by Section 18-11-1116.4.2.2 is provided. If no railings are provided, at least one clear floor or ground space complying with ICC/ANSI A117.1 shall be provided.

18-11-1116.4.4 Maneuvering space. At least one maneuvering space complying with ICC/ANSI A117.1 shall be provided on the fishing pier or platform.

18-11-1116.5 Golf. Newly designed or newly constructed and altered golf courses, driving ranges, practice putting greens and practicing teeing grounds shall be provided with accessibility features in accordance with Sections 18-11-1116.5.1 through 18-11-1116.5.7.

18-11-1116.5.1 Accessible route – golf course. An accessible route shall connect accessible elements and spaces within the boundary of the golf course. In addition, an accessible route shall connect the golf car rental area, bag drop areas, practice putting greens, accessible practice teeing grounds, course toilet rooms and course weather shelters. The accessible route required by this section shall be 48 inches (1219 mm) minimum wide. If handrails are provided, the accessible route shall be 60 inches (1524 mm) minimum wide.

Exceptions:

1. A golf car passage complying with Section 18-11-1116.5.6 shall be permitted in lieu of all or part of an accessible route required by this section.
2. The handrail requirements of ICC/ANSI A117.1 for ramps shall not

apply to an accessible route located within the boundary of a golf course.

18-11-1116.5.2 Accessible route – driving ranges.

An accessible route shall connect accessible teeing stations at driving ranges with accessible parking spaces and shall be 48 inches (1219 mm) wide minimum. If handrails are provided, the accessible route shall be 60 inches (1524 mm) wide minimum.

Exception. A golf car passage complying with Section 18-11-1116.5.6 shall be permitted in lieu of all or part of an accessible route required by this section.

18-11-1116.5.3 Teeing grounds. Teeing grounds shall comply with Sections 18-11-1116.5.3.1 through 18-11-1116.5.3.3.

18-11-1116.5.3.1 Number required. If one or two teeing grounds are provided for a hole, at least one teeing ground serving the hole shall comply with Section 18-11-1116.5.3.3. If three or more teeing grounds are provided for a hole, at least two teeing grounds shall comply with Section 18-11-1116.5.3.3.

18-11-1116.5.3.2 Forward teeing ground. The forward teeing ground shall be accessible.

Exception: In alterations, the forward teeing ground shall not be required to be accessible if compliance is not feasible due to terrain.

18-11-1116.5.3.3 Teeing grounds. Teeing grounds required by Sections 18-11-1116.5.3.1 and 18-11-1116.5.3.2 shall be designed and constructed so that a golf car can enter and maneuver within the teeing ground.

18-11-1116.5.4 Teeing stations at driving ranges and practice teeing grounds. If teeing stations or practice teeing grounds are provided, at least 5 percent of the practice teeing stations or practice teeing grounds, but not less than one, shall comply with Section 18-11-1116.5.3.3.

18-11-1116.5.5 Weather shelters. If weather shelters are provided on a golf course, each weather shelter shall have a clear floor or ground space 60 inches (1524 mm) minimum by 96 inches (2438 mm) minimum and shall be designed and constructed so that a golf car can enter and exit.

18-11-1116.5.6 Golf car passage. If curbs or other constructed barriers are provided along a golf car passage to prohibit golf cars from entering a fairway, openings at least 60 inches (1524 mm) wide shall be provided at intervals not to exceed 75 yards (69 m).

18-11-1116.5.6.1 Width. The golf car passage shall be 48 inches (1219 mm) minimum wide.

18-11-1116.5.7 Putting greens. Each putting green shall be designed and constructed so that a golf car can enter and maneuver within the putting green.

18-11-1116.6 Miniature golf. Newly designed or newly constructed and altered miniature golf courses shall be provided with accessibility features in accordance with Sections 18-11-1116.6.1 through 18-11-1116.6.4.

18-11-1116.6.1 Accessible holes. Accessible holes on a miniature golf course shall be provided in accordance with Sections 18-11-1116.6.1.1 through 18-11-1116.6.1.3.

18-11-1116.6.1.1 Minimum number of accessible holes. At least 50 percent of holes on a miniature golf course shall comply with Sections 18-11-1116.6.2 through 18-11-1116.6.4, two of which shall be the first hole on the course and the last hole on the course.

18-11-1116.6.1.2 Additional accessible holes. In addition to the accessible holes required by Section 18-11-1116.6.1.1, as many additional holes as is practical shall be provided in compliance with Sections 18-11-1116.6.2 through 18-11-1116.6.4.

18-11-1116.6.1.3 Consecutive accessible holes. The accessible holes shall be consecutive.

Exception: One break in the sequence of consecutive accessible holes shall be permitted in the sequence of consecutive accessible holes. If more than 50 percent of the holes are accessible, a maximum of two breaks shall be permitted in the sequence of consecutive accessible holes.

18-11-1116.6.2 Accessible route. An accessible route complying with ICC/ANSI A117.1 shall connect the course entrance with the first accessible hole. Start of play areas on each accessible hole shall be connected by an accessible route. The course shall be configured to allow exit from the last accessible hole to the course exit or entrance and shall not require travel back through other holes.

Exceptions:

1. If carpet is provided, the requirements of ICC/ANSI A117.1 for carpeted ground surfaces shall not apply.
2. If the accessible route intersects with the playing surface of a hole, a 1-inch (26 mm) maximum curb shall be

permitted for a width of 32 inches (813 mm) minimum.

3. An accessible route located on the playing surface of a hole may have a slope of 1:4 maximum for a 4 inch (100 mm) maximum rise.
4. If landings are required for ramps and are located on the playing surface of a hole, landings may be 48 inches (1219 mm) in length minimum. Landing size at changes in direction of ramps shall be permitted to be 48 inches (1219 mm) minimum by 60 inches (1524 mm) minimum. Landing slopes may be 1:20 maximum.
5. If an accessible route is located on the playing surface of a hole, the handrail requirements for ramps shall not apply.

18-11-1116.6.3 Start of play areas. Start of play areas at holes required to comply with Section 18-11-1116.6.1 shall have a slope not steeper than 1:48 and shall be 48 inches (1219 mm) minimum by 60 inches (1524 mm) minimum.

18-11-1116.6.4 Golf club reach range. All level areas within accessible routes where golf balls rest shall be within 36 inches (914 mm) maximum of an accessible route having a maximum slope of 1:20.

18-11-1116.7 Exercise equipment and machines, bowling lanes, and shooting facilities. Newly designed or newly constructed and altered exercise equipment, bowling lanes and shooting facilities shall be provided with accessibility features in accordance with Sections 18-11-1116.7.1 through 18-11-1116.7.3.1.

18-11-1116.7.1 Exercise equipment and machines. At least one of each type of exercise equipment and machine shall be provided with clear floor or ground space complying with ICC/ANSI A117.1 and shall be served by an accessible route. Clear floor or ground space shall be positioned for transfer or for use by an individual seated in a wheelchair. Clear floor or ground spaces for more than one piece of equipment may overlap.

18-11-1116.7.2 Bowling lanes. If bowling lanes are provided, at least 5 percent, but not less than one, of each type of lane shall be served by an accessible route.

18-11-1116.7.3 Shooting facilities. If fixed firing positions are provided at a site, at least 5 percent, but not less than one, of each type of firing position shall comply with Section 18-11-1116.7.3.1.

18-11-1116.7.3.1 Fixed firing position. Fixed firing positions shall contain a 60-inch (1524

mm) diameter space and shall have a slope not steeper than 1:48.

18-11-1116.8 Swimming pools, wading pools, and spas. Newly designed or newly constructed and altered swimming pools, wading pools and spas shall be provided with accessibility features in accordance with Sections 18-11-1116.8.1 through 18-11-1116.8.9.

Exception: An accessible route shall not be required to serve raised diving boards or diving platforms.

18-11-1116.8.1 Swimming pools. At least two accessible means of entry shall be provided for each public use and common use swimming pool. The primary means of entry shall comply with Section 18-11-1116.8.4 or 18-11-1116.8.5. The secondary means of entry shall not duplicate the primary means and shall comply with Section 18-11-1116.8.4, 18-11-1116.8.5, 18-11-1116.8.6, 18-11-1116.8.7 or 18-11-1116.8.8.

Exceptions:

1. If a swimming pool has less than 300 linear feet (91,440 mm) of swimming pool wall, at least one accessible means of entry shall be provided and shall comply with Section 18-11-1116.8.4 or 18-11-1116.8.5.
2. Wave action pools, leisure rivers, sand bottom pools and other pools where user access is limited to one area shall provide at least one accessible means of entry that complies with Section 18-11-1116.8.4, 18-11-1116.8.5, or 18-11-1116.8.7.
3. Catch pools shall be served by an accessible route that connects to the pool edge.

18-11-1116.8.2 Wading pools. At least one accessible means of entry complying with Section 18-11-1116.8.5 shall be provided for each wading pool.

18-11-1116.8.3 Spas. At least one accessible means of entry complying with Section 18-11-1116.8.4, 18-11-1116.8.6, or 18-11-1116.8.7 shall be provided for each spa.

Exception: If spas are provided in a cluster, 5 percent of the spas, but not less than one spa in each cluster, shall be accessible.

18-11-1116.8.4 Pool lifts. Pool lifts shall comply with Sections 18-11-1116.8.4.1 through 18-11-1116.8.4.9.

18-11-1116.8.4.1 Pool lift location. Pool lifts shall be located where the water level does not exceed 48 inches (1219 mm).

Exceptions:

1. This provision shall not apply if the entire pool depth is greater than 48 inches (1219 mm).
2. If multiple pool lift locations are provided, no more than one lift shall be required to be located in an area where the water level does not exceed 48 inches (1219 mm).

18-11-1116.8.4.2 Seat location. In the raised position, the centerline of the seat shall be located over the deck and 16 inches (406 mm) minimum from the edge of the pool. The deck surface between the centerline of the seat and the pool edge shall have a slope not greater than 1:48.

18-11-1116.8.4.3 Clear deck space. On the side of the seat opposite the water, a clear deck space shall be provided parallel with the seat. The space shall be 36 inches (914 mm) wide minimum and shall extend forward 48 inches (1219 mm) minimum from a line located 12 inches (305 mm) behind the rear edge of the seat. The clear deck space shall have a slope not greater than 1:48.

18-11-1116.8.4.4 Seat height. The height of the lift seat shall be designed to allow a stop at 16 inches (406 mm) minimum to 19 inches (483 mm) maximum measured from the deck to the top of the seat surface when the seat is in the raised (load) position.

18-11-1116.8.4.5 Seat width. The seat shall be 16 inches (406 mm) minimum wide.

18-11-1116.8.4.6 Footrests and armrests. Footrests shall be provided and shall move with the seat. If provided, armrests positioned opposite the water shall be removable or shall fold clear of the seat when the seat is in the raised (load) position.

Exception: Footrests shall not be required on pool lifts provided in spas.

18-11-1116.8.4.7 Operation. The lift shall be capable of unassisted operation from both the deck and water levels. Controls and operating mechanisms shall be unobstructed when the lift is in use and shall comply with the operation requirements of ICC/ANSI A117.1.

18-11-1116.8.4.8 Submerged depth. The lift shall be designed so that the seat will submerge to a water depth of 18 inches (457 mm) minimum below the stationary water level.

18-11-1116.8.4.9 Lifting capacity. Single person pool lifts shall have a minimum weight capacity of 300 pounds (136 kg) and shall be capable of sustaining a static load of at least one and a half times the rated load.

18-11-1116.8.5 Sloped entries. Sloped entries designed to provide access into the water shall comply with Sections 18-11-1116.8.5.1 through 18-11-1116.8.5.3.

18-11-1116.8.5.1 Sloped entries. Sloped entries shall comply with the requirements for accessible routes, except as modified herein.

Exception: If sloped entries are provided, the surfaces shall not be required to be slip resistant.

18-11-1116.8.5.2 Submerged depth. Sloped entries shall extend to a depth of 24 inches (610 mm) minimum to 30 inches (762 mm) maximum below the stationary water level. If landings are required for ramps, at least one landing shall be located 24 inches (610 mm) minimum to 30 inches (762 mm) maximum below the stationary water level.

Exception: In wading pools, the sloped entry and landings, if provided, shall extend to the deepest part of the wading pool.

18-11-1116.8.5.3 Handrails. Handrails shall be provided on both sides of the sloped entry and shall comply with the handrail requirements of ICC/ANSI A117.1. The clear width between handrails shall be 33 inches (838 mm) minimum and 38 inches (965 mm) maximum.

Exceptions:

1. Handrail extensions shall not be required at the bottom landing serving as a sloped entry.
2. If a sloped entry is provided for wave action pools, leisure rivers, sand bottom pools and other pools where user access is limited to one area, the required clear width between the handrails shall not apply.
3. Handrails shall not be required on sloped entries in wading pools.

18-11-1116.8.6 Transfer walls. Transfer walls shall comply with Sections 18-11-1116.8.6.1 through 18-11-1116.8.6.5.

18-11-1116.8.6.1 Clear deck space. A clear deck space of 60 inches (1524 mm) minimum by 60 inches (1524 mm) minimum with a slope

not steeper than 1:48 shall be provided at the base of the transfer wall. If one grab bar is provided, the clear deck space shall be centered on the grab bar. If two grab bars are provided, the clear deck space shall be centered on the clearance between the grab bars.

18-11-1116.8.6.2 Height. The height of the transfer wall shall be 16 inches (406 mm) minimum to 19 inches (483 mm) maximum measured from the deck.

18-11-1116.8.6.3 Wall depth and length. The depth of the transfer wall shall be 12 inches (305 mm) minimum to 16 inches (406 mm) maximum. The length of the transfer wall shall be 60 inches (1524 mm) minimum and shall be centered on the clear deck space.

18-11-1116.8.6.4 Surface. Surfaces of transfer walls shall not be sharp and shall have rounded edges.

18-11-1116.8.6.5 Grab bars. At least one grab bar shall be provided on the transfer wall. Grab bars shall be perpendicular to the pool wall and shall extend the full depth of the transfer wall. The top of the gripping surface shall be 4 inches (102 mm) minimum and 6 inches (152 mm) maximum above transfer walls. If one grab bar is provided, clearance shall be 24 inches (610 mm) minimum on both sides of the grab bar. If two grab bars are provided, clearance between grab bars shall be 24 inches (610 mm) minimum. Grab bars shall comply with ICC/ANSI A117.1.

18-11-1116.8.7 Transfer systems. Transfer systems shall comply with Sections 18-11-1116.8.7.1 through 18-11-1116.8.7.7.

18-11-1116.8.7.1 Transfer platform. A transfer platform 19 inches (483 mm) minimum clear depth by 24 inches (610 mm) minimum clear width shall be provided at the head of each transfer system.

18-11-1116.8.7.2 Clear deck space. A clear deck space of 60 inches (1524 mm) minimum by 60 inches (1524 mm) minimum with a slope not steeper than 1:48 shall be provided at the base of the transfer platform and shall be centered along a 24-inch (610 mm) minimum unobstructed side of the transfer platform.

18-11-1116.8.7.3 Height. The height of the transfer platform shall comply with Section 18-11-1116.8.6.2.

18-11-1116.8.7.4 Transfer steps. Transfer step height shall be 8 inches (203 mm) maximum.

Transfer steps shall extend to a water depth of 18 inches (457 mm) minimum below the stationary water level.

18-11-1116.8.7.5 Surface. The surface of the transfer system shall not be sharp and shall have rounded edges.

18-11-1116.8.7.6 Size. Each transfer step shall have a tread clear depth of 14 inches (356 mm) minimum and 17 inches (432 mm) maximum and shall have a tread clear width of 24 inches (610 mm) minimum.

18-11-1116.8.7.7 Grab bars. At least one grab bar on each transfer step and the transfer platform, or a continuous grab bar serving each transfer step and the transfer platform, shall be provided. If provided, the top of the gripping surface shall be 4 inches (102 mm) minimum and 6 inches (152 mm) maximum above each step and transfer platform. If a continuous grab bar is provided, the top of the gripping surface shall be 4 inches (102 mm) minimum and 6 inches (152 mm) maximum above the step nosing and transfer platform. Grab bars shall comply with ICC/ANSI A117.1 and shall be located on at least one side of the transfer system. The grab bar located at the transfer platform shall not obstruct transfer.

18-11-1116.8.8 Pool stairs. Pool stairs shall comply with Sections 18-11-1116.8.8.1 and 18-11-1116.8.8.2.

18-11-1116.8.8.1 Pool stairs. Pool stairs shall comply with ICC/ANSI A117.1, except as modified herein.

18-11-1116.8.8.2 Handrails. The width between handrails shall be 20 inches (508 mm) minimum and 24 inches (610 mm) maximum. Handrail extensions shall not be required at the bottom landing serving a pool stair.

18-11-1116.8.9 Water play components. If water play components are provided, the provisions of Section 18-11-1115 and the requirements for accessible routes shall apply, except as modified or otherwise provided in this section.

Exceptions:

1. If the surface of the accessible route, clear floor or ground spaces and maneuvering spaces connecting play components is submerged, the provisions of Section 18-11-1115 and the accessible route requirements for cross slope, running slope and surface shall not apply.

2. Transfer systems complying with Section 18-11-1115.5 may be used in lieu of ramps to connect elevated play components.

18-11-1117 EXISTING FACILITIES

18-11-1117.1 Scope. The provisions of this chapter shall apply to the repair, alteration, change of occupancy, addition to and relocation of existing buildings. A building or portion of a building which has not been previously occupied or used for its intended purpose shall comply with the provisions of the Building Code for new construction.

18-11-1117.1.1 Maintenance. A building, facility or element that is constructed or altered to be accessible in accordance with this chapter shall be maintained accessible during occupancy.

Exception: This requirement shall not apply to accessible elements within owner-occupied Type A units, owner-occupied Type B units or owner-occupied townhouses required by Section 18-11-1107.6.4.4.1.

18-11-1117.2 Repairs. Repairs shall be done in a manner that maintains the level of accessibility that existed before the repair was undertaken.

18-11-1117.3 Alterations – Level 1. If a building or facility is altered, the entire facility shall comply with the applicable provisions for new construction, unless technically infeasible. If compliance with this section is technically infeasible, the alteration shall provide access to the maximum extent technically feasible. For purposes of calculating percentages of reproduction costs as defined in Section 18-11-1117.2, the cost of alterations shall be the total combined costs of all alterations made within any period of 30 months and shall include all hard costs for the scope of work. Soft costs are not required to be included as costs of alterations.

Exceptions:

1. If the cost of alterations is 15 percent or less of the reproduction cost of the facility as defined in Section 18-11-1117.2, only the element or space being altered is required to comply with new construction requirements.
2. If the cost of alterations is more than 15 percent but less than 50 percent of the reproduction cost of the facility as defined in Section 18-11-1117.2, the alterations shall comply with Section 18-11-1117.3.3.
3. If the cost of alterations is less than 50 percent of the reproduction cost of the facility as defined in Section 18-11-1117.2, the altered element or space is not required to be on an accessible route unless an accessible route is

required by Sections 18-11-1117.3.3 or 18-11-1117.3.4.

4. If the cost of alterations is less than 50 percent of the reproduction cost of the facility as defined in Section 18-11-1117.2, accessible means of egress are not required to be provided in existing buildings and facilities unless accessible means of egress are required by Section 18-11-1117.3.3.
5. Type B dwelling and sleeping units required by Section 18-11-1107 and visitable units required by Section 18-11-1107 are not required in existing buildings and facilities.
6. In residential occupancies covered by Sections 18-11-1107.6.2 through 18-11-1107.6.4 and by Section 18-11-1107.6.6, accessibility is not required in alterations that do not involve a change of occupancy.

18-11-1117.3.1 Extent of application. An alteration of an existing element, space or area of a building or facility shall not require greater accessibility than would be required for new construction. Alterations shall not reduce or have the effect of reducing accessibility of a building, portion of a building or facility.

18-11-1117.3.2 Tenant finishing work. Work to finish out a tenant space for first occupancy shall be considered new construction regardless of when the finishing work is performed and the tenant space shall be in compliance with the requirements for new construction after the work is completed. Subsequent tenant space remodeling shall be subject to the requirements of this chapter for existing buildings.

18-11-1117.3.3 Scope. The provisions of Sections 18-11-1117.3.3.1 through 18-11-1117.3.3.3 shall apply if the cost of alterations is more than 15 percent, but less than 50 percent, of the reproduction cost of the facility as defined in Section 18-11-1117.2.

18-11-1117.3.3.1 State-owned facilities. If the facility is owned by the State of Illinois, the following items shall comply with the applicable requirements for new construction:

1. The element or space being altered.
2. An entrance and a means of egress for use by the general public.
3. All spaces and elements necessary to provide horizontal and vertical accessible routes between an accessible entrance and means of egress and the element or space being altered.
4. At least one accessible toilet room for each sex, or a unisex toilet room, if toilets are provided or required.

5. Accessible parking spaces if parking is provided.
6. An accessible route from public sidewalks or from accessible parking spaces, if provided, to an accessible entrance.

18-11-1117.3.3.2 Non-State-owned facilities - cost under \$100,000. For facilities other than those owned by the State of Illinois, if the cost of alterations is less than \$100,000, the following items shall comply with the applicable requirements for new construction:

1. The element or space being altered.
2. An entrance and a means of egress for use by the general public.

18-11-1117.3.3.3 Non-State-owned facilities - cost of \$100,000 or more. For facilities other than those owned by the State of Illinois, if the cost of alterations is \$100,000 or more, the following items shall comply with the applicable requirements for new construction:

1. The element or space being altered.
2. An entrance and a means of egress for use by the general public.
3. All spaces and elements necessary to provide horizontal and vertical accessible routes between an accessible entrance and means of egress and the element or space being altered.

Exception. Vertical access is not required in buildings with two levels of occupiable space if the cost of providing such vertical access is more than 20 percent of the reproduction cost of the facility as defined in Section 18-11-1117.2.

4. At least one accessible toilet room for each sex, or a unisex toilet room, if toilets are provided or required.
5. Accessible parking spaces if parking is provided.
6. An accessible route from public sidewalks or from accessible parking spaces, if provided, to an accessible entrance.

18-11-1117.3.4 Alterations affecting an area containing a primary function. If an alteration affects the accessibility to an area of primary function, or contains an area of primary function, the route to the primary function area shall be accessible. The accessible route to the primary function area shall include toilet facilities or drinking fountains serving the area of primary function. For the purpose of complying with this

section, an area of primary function in fixed transportation facilities and stations shall be as defined by applicable provisions of 49 CFR Part 37.43(c) or 28 CFR Part 36.403, as provided for in Section 18-11-1113.4.

Exceptions:

1. The cost of providing the accessible route is not required to exceed 20 percent of the costs of the alterations affecting the area of primary function.
2. Section 18-11-1117.3.4 shall not apply to alterations limited solely to windows, hardware, operating controls, electrical outlets and signs.
3. Section 18-11-1117.3.4 shall not apply to alterations limited solely to mechanical systems, electrical systems, installation or alteration of fire-protection systems and abatement of hazardous materials.
4. Section 18-11-1117.3.4 shall not apply to alterations undertaken for the primary purpose of increasing the accessibility of an existing building, facility or element.

18-11-1117.3.5 Specific provisions for alterations. The provisions of Sections 18-11-1117.3.5.1 through 18-11-1117.3.5.18 shall apply to alterations to existing buildings and facilities.

18-11-1117.3.5.1 Elevators. Altered elements of existing elevators shall comply with Chapter 18-30 and ICC/ANSI A117.1. Such elements shall also be altered in elevators programmed to respond to the same hall call control as the altered elevator.

18-11-1117.3.5.2 Platform lifts. Platform lifts complying with ICC/ANSI A117.1 and installed in accordance with Chapter 18-30 shall be permitted as a component of an accessible route.

18-11-1117.3.5.3 Stairs and escalators in existing buildings. In alterations where an escalator or stair is added where none existed previously, an accessible route shall be provided in accordance with Sections 18-11-1104.4 and 18-11-1104.5.

18-11-1117.3.5.4 Ramps. If steeper slopes than the slopes allowed for new construction are necessitated by space limitations, the slope of ramps in or providing access to existing buildings or facilities shall comply with Table 18-11-1117.3.5.4. A slope steeper than 1:8 is prohibited.

TABLE 18-11-1117.3.5.4 RAMPS

SLOPE	MAXIMUM RISE
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Steeper than 1:10 but not steeper than 1:8	3 inches
Steeper than 1:12 but not steeper than 1:10	6 inches

For SI: 1 inch = 25.4 mm.

18-11-1117.3.5.5 Dining areas. An accessible route to raised or sunken dining areas or to outdoor seating areas is not required provided that the same services and decor are provided in an accessible space usable by any occupant and not restricted to use by people with a disability.

18-11-1117.3.5.6 Performance areas. If it is technically infeasible to alter performance areas to be on an accessible route, at least one of each type of performance area shall be made accessible.

18-11-1117.3.5.7 Assembly areas. Seating shall adjoin an accessible route. If it is technically infeasible to disperse accessible seating throughout an altered assembly area, wheelchair spaces shall be dispersed in accordance with Sections 18-11-1108.2.2.2 and 18-11-1108.2.2.3 to the maximum extent feasible. In existing assembly seating areas with a mezzanine, if the main level provides three-fourths or more of the total seating capacity, wheelchair spaces may be dispersed on the main level. Each accessible seating area shall have provisions for companion seating.

18-11-1117.3.5.8 Dwelling or sleeping units. If dwelling or sleeping units are altered or added, the requirements of Sections 18-11-1107.5, 18-11-1107.6.1.1 and 18-11-1107.6.6 for accessible units or Type A units, and the requirements for accessible alarms, shall apply only to the quantity of spaces being altered or added. The requirements of Sections 18-11-1107.6.2, 18-11-1107.6.4 and 18-11-1107.6.5 shall apply if there is a change of occupancy in accordance with Section 18-11-1117.6.

18-11-1117.3.5.9 Toilet rooms. If it is technically infeasible to alter existing toilet and bathing facilities to be accessible, an accessible unisex toilet or bathing facility is permitted. The unisex facility shall be located on the same floor and in the same area as the existing facilities.

18-11-1117.3.5.10 Dressing, fitting and locker rooms. If it is technically infeasible to provide accessible dressing-, fitting- or locker -rooms at the same location as similar types of rooms, one accessible room on the same level shall be provided. If separate sex facilities are provided, accessible rooms for each sex shall

be provided. Separate sex facilities are not required if only unisex rooms are provided.

18-11-1117.3.5.11 Check-out aisles. If check-out aisles are altered in facilities having a selling space of less than 5,000 square feet (465 m²), at least one check-out aisle shall be accessible. If check-out aisles are altered in facilities having a selling space of 5,000 square feet (465 m²) or more, at least one check-out aisle serving each function shall be made accessible.

18-11-1117.3.5.12 Dispersion of seating at fixed or built-in tables, counters, or work surfaces. Accessible seating at fixed or built-in tables, counters or work surfaces shall be distributed throughout the space or facility to the maximum extent that is technically feasible.

18-11-1117.3.5.13 Sales and service counters. If it is technically infeasible for existing counters for sales or distribution of goods or services to be made accessible, an accessible auxiliary counter shall be provided.

18-11-1117.3.5.14 Thresholds. The maximum height of existing thresholds at doorways shall be 3/4 inch (19 mm). Such threshold shall have beveled edges on each side.

18-11-1117.3.5.15 Entrances to tenant spaces. If a tenant space is altered, at least one entrance to the tenant space, which is on a general circulation path, shall be accessible.

18-11-1117.3.5.16 Site improvements and exterior facilities. Alterations to site and exterior facilities shall comply with Sections 18-11-1117.3.5.16.1 through 18-11-1117.3.5.16.4.

18-11-1117.3.5.16.1 Curbs. Existing curbs that are part of any reconstruction or alteration shall be provided with accessible curb ramps along the path of travel between buildings and facilities.

18-11-1117.3.5.16.2 Walks. Walks, sidewalks and curb ramps installed as part of a municipal improvement and replacement walks or sidewalks within a site shall comply with the requirements for new construction.

18-11-1117.3.5.16.3 Parking lots. Changes, improvements and maintenance of existing parking lots, including, but not limited to, sealcoating, resurfacing, remarking, fencing, curbs, walks and

landscaping shall include installation of accessible parking spaces in accordance with Section 18-11-1106.

18-11-1117.3.5.16.4 Accessible routes. If inaccessible elements, such as steps, curbs or ramps, occur along a site access route within the boundary of any site connecting public transportation stops, accessible parking spaces, passenger loading zones, public streets and sidewalks and an accessible entrance to a building or facility, and such elements are altered or replaced, the entire access route shall be altered to be an accessible route.

18-11-1117.3.5.17 Play areas. Existing play areas that are altered shall comply with Section 18-11-1115.

18-11-1117.3.5.18 Recreation facilities. Existing recreation facilities that are altered shall comply with Section 18-11-1116.

18-11-1117.3.6 Rail transportation facilities. Existing rapid, light and commuter rail key stations and existing intercity rail stations shall comply with Section 18-11-1113.3.

18-11-1117.4 Alterations – Level 2. Level 2 alterations shall comply with the requirements of Section 18-11-1117.3.

18-11-1117.5 Alterations – Level 3. Level 3 alterations shall comply with the requirements of Section 18-11-1117.3.

18-11-1117.6 Change of occupancy. Accessibility in portions of buildings undergoing a change of occupancy classification shall comply with Sections 18-11-1117.6.1 and 18-11-1117.6.2.

18-11-1117.6.1 Accessibility. Unless technically infeasible, provisions for new construction shall apply to those portions of existing buildings which are altered concurrently with a change of occupancy to an occupancy which is covered by Section 18-11-1107.6.2, 18-11-1107.6.3, 18-11-1107.6.4 or 18-11-1107.6.5. In addition, such buildings shall have all of the following accessible features:

1. At least one accessible entrance.
2. At least one accessible route from an accessible entrance to primary function areas.
3. Signage complying with Section 18-11-1110.
4. Accessible parking, if parking is provided. If the ratio of total number of required parking spaces to the number of dwelling

units and sleeping units exceeds 1:1, the required number of accessible parking spaces shall be determined based on a total number of parking spaces equal to the number of dwelling units and sleeping units.

5. At least one accessible passenger loading zone if loading zones are provided.
6. At least one accessible route connecting accessible parking and accessible passenger loading zones to an accessible entrance.

Exception: Section 18-11-1117.6.1 shall not apply if the new occupancy contains less than 20 dwelling units or sleeping units.

18-11-1117.6.2 Technically infeasible. Where it is technically infeasible to comply with the new construction standards for any of these requirements for a change of occupancy, the change of occupancy shall conform to the requirements for new construction to the maximum extent technically feasible. The alterations and additions shall comply with this section and Sections 18-11-1117.3.1, 18-11-1117.3.2 and 18-11-1117.3.5 as applicable. If an area of primary function is altered concurrently with a change of occupancy, Section 18-11-1117.3.4 shall apply.

Exception: In residential occupancies covered by Sections 18-11-1107.6.2 through 18-11-1107.6.4 and 18-11-1107.6.6, accessibility is not required in alterations that do not involve a change of occupancy.

18-11-1117.7 Additions. Accessibility provisions for new construction shall apply to additions. If accessibility is required for additions, the addition shall also comply with Sections 18-11-1117.7.1 through 18-11-1117.7.4. An addition that affects the accessibility to, or contains an area of, primary function shall comply with the requirements in Section 18-11-1117.3.4 for accessible routes.

18-11-1117.7.1 Entrances. If an addition does not have an accessible entrance, at least one accessible entrance to the existing building or facility shall be provided.

18-11-1117.7.2 Accessible route. If the only accessible route to the addition is located in the existing facility, then at least one accessible route shall be provided from the accessible entrance into the addition.

18-11-1117.7.3 Toilet and bathing facilities. If no public or common use toilet or bathing rooms are located in the addition and public or common use toilet or bathing facilities are located in the existing

building or facility, then at least one accessible toilet, bathing or shower facility shall be provided for each sex in the facility or in the addition to the facility.

18-11-1117.7.4 Creation of nonconformity. An addition to an existing building shall not create any non-conformity with the provisions of this code, or extend any existing condition that is not in conformity with the provisions of this code with regard to accessibility, structural strength, fire safety, means of egress, or the capacity of mechanical, plumbing or electrical systems.

18-11-1118 HISTORIC BUILDINGS

18-11-1118.1 Change of occupancy. The provisions of Section 18-11-1117.6.1 shall apply to buildings and facilities designated as historic structures that undergo a change of occupancy, unless technically infeasible. If compliance with the requirements for accessible routes, ramps, entrances or toilet facilities will threaten or destroy the historic significance of the building or facility, as determined by the Commissioner of the Mayor's Office for People with Disabilities, the alternative requirements of Section 18-11-1118.2.3 for that element shall be permitted. If the building is a landmark, the Commissioner of the Mayor's Office for People with Disabilities shall make the determination in consultation with the Commission on Chicago Landmarks.

18-11-1118.2 Alterations and accessibility. Historic preservation, including historic reconstruction and historic restoration, shall be regulated under the alterations category that is applicable to historic buildings or historically interpreted buildings. Every qualified historic building, facility, or site open to the public that undergoes alterations shall also provide access to environmentally limited persons as required in this section to afford them the maximum opportunity to view the building's exterior and interior consistent with maintaining the historic aspects of the building or site.

Exceptions: The following buildings shall be exempt from the requirements of Section 18-11-1118.2.

1. All buildings or parts of buildings exempt from the minimum requirements for new construction.
2. All buildings or parts of buildings exempt from the minimum requirements for alterations.
3. Existing, privately-owned, multiple dwellings four or more stories in height and containing 10 or more dwelling units in which the occupants are primarily permanent in nature.
4. Parts of any building where it is technically infeasible to require strict conformity with the requirements of the code applicable to new construction.

18-11-1118.2.1 Minimum requirements. The requirements of Sections 18-11-1118.2.1.1, 18-11-1118.2.1.2 and 18-11-1118.2.2 shall apply to alterations to historic buildings and facilities.

18-11-1118.2.1.1 Compliance with provisions for new construction. Alterations to a qualified historic building or facility shall comply with the applicable requirements for new construction, unless it is determined in accordance with Section 18-11-1118.2.1.2 that such compliance will threaten or destroy the historic significance of the building or facility in which case compliance with the alternative requirements for historic buildings of Section 18-11-1118.2.3 shall be permitted.

18-11-1118.2.1.2 Alternative requirements. If alterations are undertaken to a historic building or facility and the entity undertaking the alterations believes that compliance with the requirements for accessible routes (exterior and interior), ramps, entrances or toilets will threaten or destroy the historic significance of the building or facility, the entity shall consult with (i) the Commission on Chicago Landmarks if the building or facility has been designated or preliminarily designated as a Chicago Landmark in accordance with Article XVII of Chapter 2-120 of this code; and, (ii) in all other cases, the Illinois Historic Preservation Agency. If the building or facility has been designated or preliminarily designated as a Chicago Landmark, the determination that an alteration will threaten or destroy the historic significance of the building or facility shall be based upon the requirements of the Chicago Landmark Ordinance and any rules and regulations promulgated thereunder; in all other cases, the determination shall be based upon the Secretary of the Interior's Standards for Rehabilitating Historic Buildings. If, after applying the relevant legal standard, the applicable Commission or Agency determines that compliance with the requirements for accessible routes (exterior and interior), ramps, entrances or toilets will threaten or destroy the historic significance of the building or structure, the alternative requirements of Section 18-11-1118.2.3 may be used.

18-11-1118.2.2 Scope. The scope of application of requirements for alterations shall be as set forth in Sections 18-11-1118.2.2.1 through 18-11-1118.2.2.5.

18-11-1118.2.2.1 All historic buildings – alteration costs 15 percent or less. If the cost of alterations to any historic building, facility

or site is 15 percent or less of the reproduction cost of the public facility as defined in Section 18-11-1117.2, the element or space being altered shall comply with Section 18-11-1118.2.2 if the conditions of Section 18-11-1118.2.1.2 are met. Alternative requirements for historic buildings of Section 18-11-1118.2.3 may be substituted for the requirements for new construction..

18-11-1118.2.2.2 Historically interpreted buildings – alteration costs 15 percent or more. If a historically interpreted building owned by a governmental unit or privately owned undergoes alterations which cost more than 15 percent of the reproduction cost of the public facility as defined in Section 18-11-1117.2, the requirements of Sections 18-11-1118.2.2.2.1 through 18-11-1118.2.2.2.8 shall be met.

18-11-1118.2.2.2.1 Accessible route to displays. An accessible route complying with Section 18-11-1104 and an accessible means of egress complying with the requirements of this chapter shall be provided to one principal level of the facility with displays open to the public.

Exception: If providing an accessible route or accessible means of egress will threaten or destroy the historic significance of the building or facility, fully accessible permanent interpretive exhibits which are of equivalent educational and interpretative scope as the non-accessible historic parts of the building or facility shall be provided as near to the non-accessible part of the building or facility as possible.

18-11-1118.2.2.2.2 Audible and visual information source. An audible and visual information source shall be provided adjacent to the main entrance to the historic building or facility to give directions and information to persons with disabilities.

18-11-1118.2.2.2.3 Location of displays and information. Displays and written information shall be located and designed so that they are capable of being seen by seated persons. Exhibits and signage displayed horizontally, such as open books, shall be no higher than 44 inches (1118 mm) above the floor surface.

18-11-1118.2.2.2.4 Toilet facilities. If toilets are required for the building or

facility, at least one accessible toilet room for each sex complying with Section 18-11-1109.2 shall be provided, or, if permitted by Chapter 18-29, one unisex toilet room shall be provided. The toilet room shall be located as near to the site as possible but at least within 200 feet (60,960 mm) from the main entrance of the building or facility.

18-11-1118.2.2.2.5 Drinking fountain. If drinking fountains are required in the building or facility, at least one accessible drinking fountain complying with Section 18-11-1109.5 shall be located as near to the site as possible but at least within 200 feet (60,960 mm) from the main entrance of the building or facility.

18-11-1118.2.2.2.6 Parking. If parking is provided, accessible parking spaces complying with Section 18-11-1106 shall be required.

18-11-1118.2.2.2.7 Accessible route from parking. If accessible parking spaces are provided, an accessible route from the accessible parking spaces to an accessible entrance shall be required.

18-11-1118.2.2.2.8 Alternative requirements. Alternative requirements for historic buildings of Section 18-11-1118.2.3 may be substituted for the requirements for new construction.

18-11-1118.2.2.3 Other historic buildings – alteration costs 15 percent or more. If historic buildings other than historically interpreted buildings owned by a governmental unit or privately owned undergo alterations which cost more than 15 percent of the reproduction cost of the public facility as defined in Section 18-11-1117.2, the following items shall comply with the requirements for new construction:

1. The element or space being altered.
2. An entrance and a means of egress intended for use by the general public.
3. Horizontal and vertical accessible routes between an entrance or means of egress and the parts being altered.
4. If toilets are required in the facility, at least one accessible toilet room for each sex complying with Section 18-11-1109.2; or, if permitted by the Illinois Plumbing Code, at least one unisex toilet room.

5. If parking is provided, accessible parking spaces complying with Section 18-11-1106.
6. If accessible parking spaces are provided, an accessible route from the accessible parking spaces to an accessible entrance.
7. Alternative requirements of Section 18-11-1118.2.3 may be substituted for the requirements for new construction if deemed necessary by the Illinois Historic Preservation Agency or the Commission on Chicago Landmarks.

18-11-1118.2.2.4 Additional specific provisions for alterations. The provisions of Sections 18-11-1118.2.2.4.1 through 18-11-1118.2.2.4.4 shall also apply to alterations to historic buildings.

18-11-1118.2.2.4.1 Stair handrail extensions. Full extension of stair handrails shall not be required in alterations if such extensions would be hazardous or impossible due to plan configuration.

18-11-1118.2.2.4.2 Elevator door edge. If safety door edge is provided in existing automatic elevators, the automatic door protective and reopening devices required by ICC/ANSI A117.1 shall not be required.

18-11-1118.2.2.4.3 Elevator car dimensions. Elevator car dimensions shall comply with ICC/ANSI A117.1 for existing elevators. Approved alternative car dimensions shall be permitted if it can be shown that equivalent usability is provided.

18-11-1118.2.2.4.4 Assembly seating dispersion. In alterations to historic buildings where it is technical infeasible to disperse seating throughout an assembly area, the seating may be located in collected areas. Seating shall adjoin an accessible route that also serves as a means of emergency egress.

18-11-1118.2.2.5 Calculation of reproduction cost. For the purpose of calculating percentages of reproduction cost as defined in Section 18-11-1117.2, the cost of alterations shall be construed as the total actual combined cost of all alterations made within any period of 30 months.

18-11-1118.2.3 Alternative requirements for historic buildings. The alternative requirements of

Sections 18-11-1118.2.3.1 through 18-11-1118.2.3.9 may be substituted for the requirements for new construction when a historic building undergoes alterations.

18-11-1118.2.3.1 Changes of level. Changes of level shall be accommodated by ramps having the following maximum slopes:

1. A slope between 1:10 and 1:12 is allowed for a maximum rise of 6 inches (152 mm).
2. A slope between 1:8 and 1:10 is allowed for a maximum rise of 3 inches (76 mm).
3. A slope between 1:6 and 1:8 is allowed for a maximum rise of 2 inches (51 mm).
4. If access to any space in a historic building is limited to controlled groups with assigned tour guide, changes in level as provided in item 1 of this subsection may be accommodated by means of a detachable ramp.

18-11-1118.2.3.2 Exemptions for controlled access. If access to any space in a historic building is limited to controlled groups with assigned tour guides, the following requirements shall not apply to that space:

1. Requirements for accessible doors, except minimum widths as noted in Section 18-11-1118.2.3.5, and threshold heights.
2. Requirements of Section 18-11-1109.8 for accessible storage.
3. Requirements of Section 18-11-1109.13 for accessible controls and operating mechanisms, if the controls and operating mechanisms are not intended to be operated by the general public.
4. Requirements of Section 18-11-1109.9 for detectable warnings.
5. Requirements of Section 18-11-1110 for accessible signage.

18-11-1118.2.3.3 Door hardware and operation exemption. If access to any space in a historic building is limited to controlled groups with assigned tour guides or if a full-time door attendant or concierge is provided at the door within visual and audible communication range of the tour group, accessible door hardware and operation is not required.

18-11-1118.2.3.4 Door adapter lever handles. The addition of adapter level handles that

retain the existing hardware shall be considered to meet the Secretary of the Interior's Standards if they do not result in the removal of any historic features from the structure.

18-11-1118.2.3.5 Door width. Minimum clear door opening width for a single door or the single active leaf of a pair of doors shall meet the requirements of Chapter 13-160. If the alteration of an existing historic door does not meet the Secretary of the Interior's Standards, a lesser dimension shall be considered accessible if the door provides the highest level of access within the limited dimensions available. Acceptable methods of providing improved access while maintaining the historic door include, but are not limited to, the following:

1. Maintain the door opening area free of any obstructions so that the clear opening can be measured with the door in a 180 degree position rather than the 90 degree position.
2. Reverse the swing of the door.
3. Remove or alter the side door stop(s).
4. Replace the existing hinges with offset hinges.

18-11-1118.2.3.6 Door width alternatives. For paired doors where an individual leaf does not provide the minimum clear opening, the following options shall be permitted:

1. Activating the second leaf; or
2. Adding a power operator that activates both leaves.

18-11-1118.2.3.7 Alternative accessible entrance. If it is determined that no entrance used by the public can comply with Section 18-11-1105 without threatening or destroying the historic character of the building or facility, then access at any entrance not used by the general public, but open (unlocked) with directional signage at the primary entrance shall be permitted. The accessible entrance shall also have a notification system. If security is a problem, remote monitoring shall be permitted.

18-11-1118.2.3.8 Accessible routes. Accessible routes from an accessible entrance to all publicly used spaces on at least the level of the accessible entrance shall be provided. Access shall be provided to all levels of a building or facility in compliance with Section 18-11-1104 whenever practical, and if such access will not threaten or destroy the historic character of the building or facility.

18-11-1118.2.3.9 Stair exemption. If the historic significance of the building or facility will be threatened, destroyed, or so greatly altered as to have an adverse effect on a historic stair, the requirements of Section 18-11-1109.9.2 for detectable warnings shall not apply.

SECTION 2. Section 13-24-010 of the Municipal Code of Chicago is hereby amended by inserting the language underscored and by deleting the language struck through, as follows:

13-24-010. ~~Established~~–Appointment–Term.

There is hereby established within the City of Chicago a building board of appeals. When used in this section, ~~The term~~ “board” ~~when used in this section~~ shall be construed to mean the building board of appeals. The building board of appeals shall consist of ~~seven~~ nine members to be appointed by the mayor by and with the consent of the city council. The administrative functions of the board shall be carried out by the department of buildings.

The mayor shall designate one ~~of the~~ members to serve as the board’s chairman and ~~shall designate one of the~~ members to serve as its vice-chairman, ~~who.~~ The vice-chairman will act as chairman ~~in the absence of~~ if the chairman is absent or ~~in the event that~~ if a vacancy exists in the office of the chairman.

The ~~seven~~ nine members of the board shall not be employees of the City of Chicago. One of the members shall be an architect; registered with the State of Illinois; one member shall be an engineer licensed by or registered with the State of Illinois; one member shall be a building contractor; one member shall be a labor representative representing the Chicago Building Trades Unions; ~~and three~~ members shall be residents of Chicago who will represent the public interest; one member shall be a design professional, architect or engineer registered with the State of Illinois who has architectural experience in accessibility design; and one member shall be an individual who is a member of, or who is authorized to represent, a group or organization that represents the interests of people with disabilities. Three members shall be appointed to an initial term of one year and four members shall be appointed to an initial term of two years. Of the two members appointed to the board as a result of amendment to this section in 2003, one person shall be appointed to an initial term of one year, and the other to an initial term of two years. Thereafter, all members shall be appointed for a term of two years and will hold office until a successor has been appointed. ~~Vacancies~~ Any vacancy in the membership on the board shall be filled in the same manner ~~that as the original appointments are made and shall be filled~~ for the unexpired term ~~of the member whose place has become vacant.~~ The necessary support staff for the board and the salaries of the members of the board shall be determined

and fixed by the city council in the annual appropriation ordinance. In addition to the foregoing, the buildings commissioner, ~~and~~ the fire commissioner and the commissioner of the mayor's office for people with disabilities shall each appoint a one representative of ~~each~~ of their respective departments to serve as an advisory, nonvoting members of the board.

SECTION 3. This ordinance shall take full force and effect on July 1, 2004.

City of Dearborn
www.cityofdearborn.org

Community Development Block Grant

**Neighborhood Stabilization Program
Dodd-Frank Act (NSP3)
Substantial Amendment
2010 Annual Action Plan**

Original Submission: February 24, 2011

Revision No. 1:

Revision No. 2:

NSP3 Grantee Contact Information:

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Neighborhood Stabilization Program

The third round of US Department of Housing and Urban Development (**HUD**) Neighborhood Stabilization Program (**NSP3**) funding was authorized under Section 1497 of the Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Act) for the purpose of assisting in the redevelopment of abandoned and foreclosed homes.

This NSP3 application is considered to be a substantial amendment to the City of Dearborn's 2010-11 Annual Action Plan and its 2010-2015 Housing & Community Development Consolidation Plan.

A. Areas of Greatest Need

Table 1

Percent 80 AMI (Moderate-Income)	Percent 120 AMI (Middle-Income)	Census Tract	NSP3 Needs Score	USPS Vacant 90+ Days	Estimated Delinquent Mortgages	USPS Vacant or No Status	USPS Addresses
NSP3-East							
60.0%	77.0%	573300	19	9.6%	16.8%	10.2%	1089
73.3%	89.1%	573800	19	8.5%	17.7%	9.5%	1554
75.4%	85.3%	573600	19	8.5%	16.6%	9.8%	2183
69.4%	85.2%	574000	18	10.6%	14.5%	11.2%	1926
58.4%	82.4%	573400	18	8.9%	15.0%	12.0%	2029
70.1%	84.2%	573900	18	7.7%	15.3%	8.7%	1535
65.4%	82.8%	574100	18	7.2%	14.8%	7.9%	1463
81.7%	92.0%	573500	18	6.0%	14.6%	6.4%	1072
62.0%	79.8%	573700	18	5.0%	15.5%	5.3%	2347
43.1%	64.9%	574300	18	3.1%	15.5%	3.1%	1367
NSP3-West							
32.4%	53.9%	575500	17	3.5%	13.0%	3.7%	1736
35.4%	64.6%	575200	17	3.2%	13.4%	3.3%	1950
36.3%	58.4%	575400	17	0.9%	13.5%	0.9%	1503
31.2%	53.3%	575300	17	0.8%	13.8%	0.8%	1586
29.8%	61.3%	575100	17	0.6%	13.4%	1.0%	1258
Below Michigan Minimum Threshold							
26.3%	49.6%	574700	16	1.9%	12.2%	2.1%	1797
37.9%	60.5%	575000	16	1.6%	12.2%	1.7%	2264
24.5%	49.1%	575600	16	0.3%	12.0%	0.3%	731
29.5%	48.1%	574200	15	5.1%	11.1%	5.3%	1765
21.5%	47.0%	574600	15	1.8%	11.4%	1.9%	2040
41.0%	58.1%	574900	14	2.4%	10.1%	2.8%	1163
15.2%	35.3%	574800	14	1.4%	10.3%	1.5%	1641
18.7%	34.7%	574500	14	1.0%	10.1%	1.2%	1268
33.6%	49.2%	574400	13	3.7%	9.7%	4.1%	832
81.7%	92.0%	High	19	10.6%	17.7%	12.0%	
15.2%	34.7%	Low	13	0.3%	9.7%	0.3%	
51.0%	51.0%	Threshold	17				
48.5%	63.3%	Midpoint		5.5%	13.7%	6.2%	
65.1%	77.7%	Qtrpoint		8.0%	15.7%	9.1%	

The data presented in **Table 1** was obtained from the HUDUSER *Foreclosure Need Map Targeting Widget* at www.huduser.org. The table presents data for all City of Dearborn census tracts and is sorted by NSP3 Needs Score (column 4), US Postal Service 90-Day Vacancy data (column 5) and Estimated Delinquent Mortgages (column 6).

Geographically, census tracts 573300 through 574300 are located east of the Southfield Freeway (M39); and census tracts 574400 through 575600 are located west of the Southfield Freeway. All east Dearborn census tracts have an NSP3 Needs Score at or exceeding the Michigan minimum threshold of 17, excluding census tract 574200 (Springwells) which has a score of 15. Five census tracts in west Dearborn, 575100 through 575500, have an NSP3 Needs score of 17.

The City of Dearborn has identified three target areas, each with an NSP3 Needs Score at or exceeding the State of Michigan minimum threshold of 17:

NSP3-East. Census Tracts 573300-574100 and 574300. Needs Score 18.30.

EDDDA (East Dearborn Downtown Development Authority). A downtown redevelopment area which is a subset of the NSP3-East target area. Needs Score 18.

NSP3-West. Census Tracts 575100-575500. Needs Score 17.

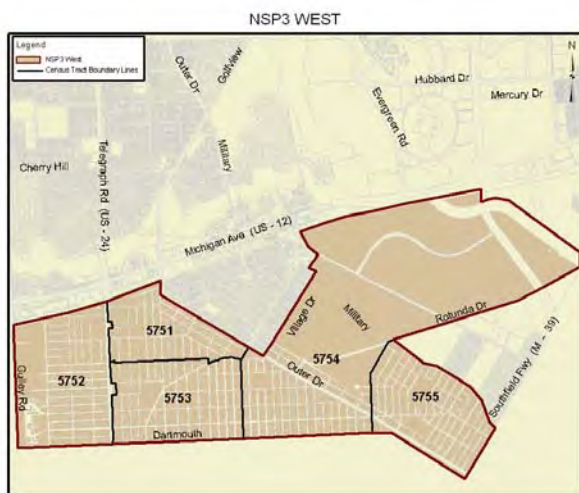


Table 2

Neighborhood Name: Neighborhood ID:	Dearborn 6368743	NSP3-East 1605346	EDDDA 4682617	NSP3-West 5010559
Neighborhood NSP3 Score	16.92	18.30	18	17
Minimum Threshold (Michigan)	17	17	17	17
Total Housing Units in Neighborhood	39,659	18,190	429	8,216
Percent Persons with Income < 120% AMI	66.72	83.08	84.83	58.32
Percent Persons with Income < 80% AMI	46.85	66.35	70.23	33.26
USPS Residential Addresses in Neighborhood	38,103	16,566	403	8,026
Residential Addresses Vacant 90 Days or More (March 2010)	1,707	1,251	39	161
Residential Addresses, No Status (March 2010)	181	159	2	8
Housing Units Receiving a Mortgage, 2004-2007	13,635	6,652	151	2,873
Percent of Housing Units with a High Cost Mortgage, 2004-2007	24.33	32.67	31.6	22.65
Percent of Housing Units in Foreclosure or 90+ Days Delinquent	13.69	15.64	14.57	13.4
Number of Foreclosure Starts in Past Year	988	549	12	199
Number of Real-Estate Owned Units, July 2009-June 2010	839	466	10	169
Estimated Number of Properties to Make an Impact (20% of REO in Past Year)	195	111	3	38

Table 2 presents selected HUDUSER Foreclosure Needs data for the City of Dearborn as a whole and for each of the three identified target areas.

B. Distribution and Uses of Funds

As presented in Table 2 (above), all three of the identified NSP3 target areas have concentrations ($\geq 51\%$) of middle-income persons (income at or below 120% of the Area Median Income). Both East Dearborn target areas also have a concentration of moderate-income persons (income at or below 80% AMI).

The NSP3-East target area experiences high cost (subprime) mortgages at a rate of 32.67% and has housing units in foreclosure or 90+ days delinquent at a rate of 15.64%. 55.6% of the foreclosure starts in the past year are located in this target area.

The estimated number of properties to make an impact (see Table 2) in the **NSP3-East** target area is 111. The City of Dearborn has already made significant efforts in this area through its Operation Eyesore and Neighborhood Stabilization Programs, including 58 properties assisted or in progress through HUD-NSP1. NSP3 funding will enable the City to continue its efforts in this area. Activities in this target area may include: acquisition and renovation of foreclosed properties for resale to low-middle income homebuyers and/or the demolition of blighted properties.

The estimated number of properties to make an impact in the **NSP3-West** target area is 38. The City of Dearborn has also made significant locally funded efforts in this area. The *needs* (vacancy, foreclosures/delinquencies, concentration of low-middle income persons) for this target area are not as significant as those in NSP-East. Therefore, NSP3 assistance in this target area will be limited to the demolition of blighted properties. Blight removal provides the greatest positive impact to surrounding properties; while, the failure to address blight would contribute to further decline.

The estimated number of properties to make an impact in the **EDDDA** target area is three. The East Dearborn Downtown Development Authority utilizes tax increment funding and other resources to implement its long-range downtown development plan. NSP3 funding will support housing development on the site of the former Montgomery Ward property. The introduction of a multi-family housing project in this location will provide additional foot traffic and disposable income to this important downtown area. This additional activity is also expected to spark the development of a two-story retail/office structure that is planned for this site.

C. Definitions and Descriptions

1. Blighted structure, a property that is either:

- a. Condemnable and “unfit for human habitation” as defined at Section 11-227 of the Housing Chapter (Chapter 11) of the Dearborn Code of Ordinances; and, measured as a property for which the estimated cost of improvements exceeds
 - i. The State Equalized Value (SEV) of the property or
 - ii. The current appraised value of the property, whichever is less.

OR

- b. A property for which the estimated cost of improvements exceeds 50% of the State Equalized Value (SEV) of the property or 50% of the current appraised value of the property, whichever is less; and exhibits one or more of the following substantial deviations from code:
 - i. Structure is located less than 10 feet from structures on adjacent properties;
 - ii. Structure has an inadequate or temporary foundation;
 - iii. Structure provides less than 750 square feet of usable floor space;
 - iv. Structure is not connected to the public water and/or sewer system;
 - v. Property does not provide the required front or rear yard setback and the front setback provided is not compatible with that of adjacent properties.
 - vi. Lot is less than 40 feet in width does not provide all of the required individual and combined side yard setbacks.
 - vii. Structural integrity compromised (examples: supporting wall removed, ceiling/floor joist severed).
 - viii. Structure damaged by fire.
 - ix. Structure damaged by water or mold.

2. Affordable rents

The City of Dearborn utilizes the Detroit Metropolitan Area Fair Market Rent Schedule (DET-FMR) and HOME Program Rent Schedules as published by the US Department of Housing and Urban Development (HUD) in its Community Development Block Grant (CDBG) and HOME Program funded housing rehabilitation assistance programs.

The DET-FMR is a gross rent figure that includes utilities. Any utilities that are required to be paid by the tenant must be subtracted from the FMR to determine the maximum “affordable rent” rate. MSHDA’s Region I Utility Schedule may be used for this calculation.

The City of Dearborn will continue to rely on these same published rates for its Neighborhood Stabilization Program projects. *Affordable Rent* shall be defined as:

- a. For assisted households with income at or below 120% of the area median income—the Detroit Metropolitan Area Fair Market Rent (DET-FMR).
- b. For households receiving assistance under activities targeting individuals and families with income at or below 50% of the area median income—the Low HOME Rent, defined as the rent affordable at 50% AMI or DET-FMR, whichever is less.
- c. Affordable rents may change over the life of a project, but shall not be reduced below the affordable rent established at the time of project commitment.

Based upon DET-FMR rates published in October 2010 and HOME Program Rents published in May 2010 the following table describes the current schedule (as may be amended) of affordable rents. Adjustments will be applied for housing units with more than 4 bedrooms.

		1	2	3	4
	Efficiency	Bedroom	Bedroom	Bedroom	Bedroom
DET-Fair Market Rent	594	676	809	968	997
50% Rent Limit	611	655	786	907	1,012
DBN-NSP Rent Limit	594	676	809	968	997
DBN-Low HOME Limit	594	655	786	907	997

3. Ensuring Continued Affordability

- a. **Homebuyer purchase transactions** will be subject to the City of Dearborn HUD-NSP Assisted Acquisition & Rehabilitation Homebuyer Assistance Guidelines adopted by Council Resolution #6-393-10, as may be amended. Homebuyer transactions will be secured by a recorded document that will require either:
- i. Resale of the property to LI or LMML-income homebuyers at a purchase price that does not exceed current market value (certified appraisal provided by lender or Department of Assessment value) or the FHA 203 B mortgage limit, whichever is lower, during an established affordability period. Resale transaction must include all appliances that were provided by the program. Subsequent LI or LMML-income homebuyers must agree to program terms and conditions for the remainder of the affordability period. OR,
 - ii. If the home is resold to an unqualified purchaser during the affordability period, repayment of certain proceeds will be required. After repayment, there will be no further obligations to the program.

The Affordability Period for homebuyer purchase transactions shall be:

- iii. 10 years for purchase transactions with *total homebuyer assistance* of \$15,000 or less.
 - iv. 15 years for purchase transactions with *total homebuyer assistance* of \$15,000-\$40,000. Or,
 - v. 20 years for purchase transactions with total homebuyer assistance greater than \$40,000.
- b. **Assisted Rental Property** transactions will be subject to terms and conditions enumerated in an executed development agreement. The NSP3 rental subsidy will be secured by a recorded document that requires either:
- i. Rental of assisted units to LI or LMML-income qualified tenants at affordable rents throughout the affordability period.
 - Rents must not exceed “affordable rents” for the full term of the affordability period.
 - Tenants must be income qualified at the time they move in, but do not have to be re-certified annually. A tenant’s income may increase over time without displacement from the project, but any new tenant moving into an assisted unit must be income qualified.
 - ii. Or, repayment of certain assistance amounts.

The Affordability Period for rental property transactions shall be:

- iii. 5 years if per unit rental subsidy is \$15,000 or less.
- iv. 10 years if per unit rental subsidy exceeds \$15,000 but does not exceed \$40,000.
- v. 15 years if per unit rental subsidy exceeds \$40,000.
- vi. 20 years if project is new construction.

If the City of Dearborn or its Housing Commission acquires or retains ownership of an assisted rental property, a recorded document shall not be required. Default and recapture payments shall be limited to the amount of net resale proceeds. All other applicable terms and conditions of this section shall be fully enforced.

4. Housing Rehabilitation Standards

Whenever City of Dearborn NSP3 funds are utilized for housing rehabilitation the following standards will apply:

- a. Local Code. Upon completion, housing units will meet local Residential Certificate of Occupancy (C of O) requirements.
- b. Lead Paint Hazard Reduction requirements (HUD 24 CFR Part 35 and Michigan Public Act 368 of 1978, as amended).
- c. Energy Efficiency.
 - i. All gut rehabilitation projects will be designed to meet the standard for Energy Star Qualified New Homes.
 - ii. Mid-high rise new construction of multi-family housing will be designed to meet the Energy Star standard for multi-family building piloted by the Environmental Protection Agency and the Department of Energy.
 - iii. Other rehabilitation projects will meet these standards to the extent applicable to the rehabilitation undertaken (example, replace older/obsolete products and appliances with Energy Star labeled products).
- d. Exterior improvements (siding, trim, landscaping, etc.) to address aged or “eyesore” conditions and designed to enhance the desirability and property values of the surrounding neighborhood. (Optional)
- e. Barrier-Free Access or Visitability Improvements when requested by an identified eligible homebuyer or in 20% of the assisted-units in a multi-unit structure with more than four units.

5. Rental Housing Preference

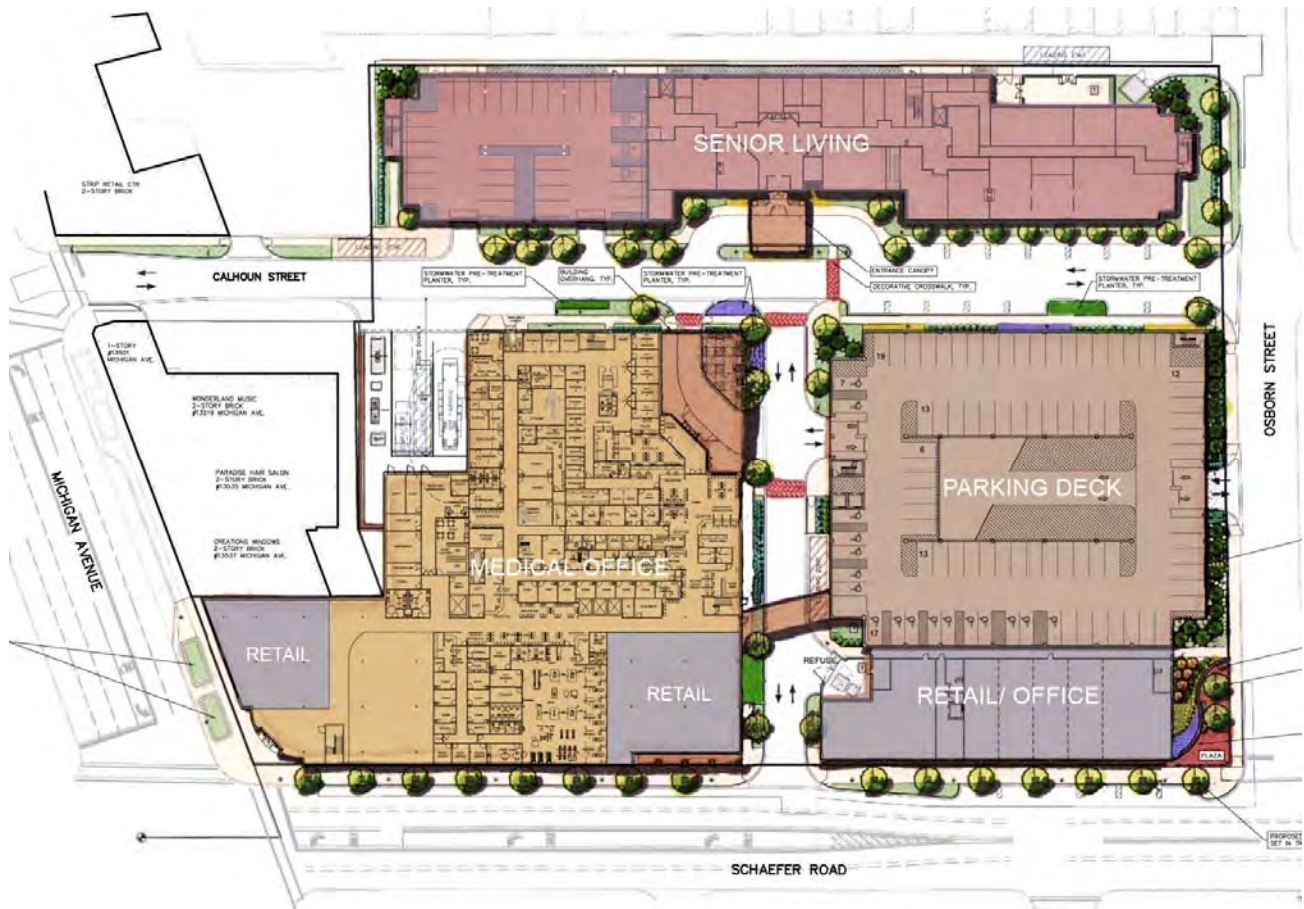
The NSP3-East target area (which includes the Fordson-East, Fordson-West, Salina and eastern half of the Fairlane Master Plan Communities) is predominantly zoned for single-family housing.

According to the City of Dearborn's 2010-2015 Consolidated Plan (which relied upon 2000 US Census data and 2009 CHAS data), 26.5% of Dearborn's occupied housing is rental-occupied. This concentration is disproportionately higher in the NSP3-East target area: Fordson-East, 36.5%, Fordson-West, 37.6%, Salina, 62.4%, and Fairlane, 48.2%.

2010 US Census data is expected to reveal a sharp increase in the percentage of rental-occupied housing. Due to recent economic conditions, homes that are unable to resell to owner-occupants are converted to investment properties or remain vacant.

Therefore, the City of Dearborn's rental housing preference will be limited to multi-family projects in the mixed-use zoning, downtown EDDDA target area.

More specifically, the City of Dearborn plans to provide NSP3 resources to support the **Redico-Senior Living multi-family housing development** at the site of the former Montgomery Ward department store. The senior housing project is phase two of a planned mixed-use project at the southeast corner of Michigan Avenue and Schaefer.



Redico (owner/developer) purchased the vacant property from the City of Dearborn after an extensive Request for Development Partner (RFDP) process that commenced in February 2006. The planned mixed-use redevelopment project includes three phases.

Phase one included the development of a medical office building and a public parking structure. Oakwood Hospital (the long-term tenant of the medical facility) began its operations at this site on January 3, 2011.

Phase two will provide the residential component of the mixed-use project along the eastern edge of the site (abutting and providing a buffer for the adjacent single-family neighborhood).

Phase three plans a two-story retail/office structure to be located to the west of the public parking structure, with Schaefer road frontage. The new activity and disposable income resulting from the completion of phase one and phase two is expected to provide the economic synergy necessary to obtain financing for this final development phase.

If a viable rental housing project cannot be initiated in compliance with NSP3 expenditure requirements (50% within two-years and 100% within four-years), NSP3 funding will be reallocated to eligible homeownership and/or demolition projects.

6. Vicinity Hiring Requirement

NSP3 regulations require that grantees “shall, to the maximum extent feasible, provide for the hiring of employees who reside in the vicinity ... or contract with small businesses that are owned and operated by persons residing in the vicinity of” assisted projects.

If a new hire opportunity shall occur among the City of Dearborn Economic and Community Development Department staff assigned to administer any portion of this NSP3 grant, the posting for that position shall be outreached/forwarded to non-profit agencies serving area residents, such as ACCESS, SEMCA-Michigan Works!, JVS Detroit, Henry Ford Community College, the University of Michigan-Dearborn, and Dearborn Section 8 Voucher holders. The application, testing, interview and ranking process shall be dictated by current Dearborn Civil Service procedures. Once ranked, the names of the top-rated candidates (top three) are forwarded to the hiring department. Vicinity applicants appearing on this listing of top-rated applicants may be given extra consideration by the hiring authority.

Similarly, any subrecipient engaged to administer NSP3 activities or any developer receiving more than \$100,000 in NSP3 assistance, shall be expected to outreach and “provide for the hiring of employees who reside in the vicinity” whenever a new hire opportunity arises within the performance of their subrecipient or developer agreement.

For contract opportunities with an estimated cost of \$25,000 or greater, the City of Dearborn (and NSP3 subrecipients, if any) shall follow its Purchasing Ordinance, City Code of Ordinances Section 2-568A “Preference for local bidders / Dearborn-based businesses.”

In part, this section provides that:

“The person or business submitting the lowest responsive, responsible bid, according to the requirements of the bidding documents, shall be deemed the lowest bidder. If the lowest bidder is not a Dearborn-based business, a Dearborn-based business with a bid within five percent of the lowest bid shall be deemed the lowest bidder if it agrees to reduce its bid to match the bid of the lowest bidder. A lowered bid by a Dearborn-based business which is premised upon, in whole or in part, changes to or variances to the bid specifications, contract requirements, or scope of work shall be considered nonresponsive and will not be considered.” [Sec 2-568A (d) (1)]

Vicinity preferences shall not apply to:

1. Purchases resulting from exigent emergency conditions;
2. Purchases from sole source vendors;
3. Purchases made through the state’s extended program or other cooperative agreement;
4. The procurement of goods or services utilizing an award process that is based upon criteria other than lowest cost.

7. Pre-Award Costs.

This NSP3 Substantial Amendment contemplates the expenditure of funding for eligible activities prior to the effective date of the grant agreement.

In compliance with 24 CFR 570.200(h) these expenditures shall be limited to general planning and administrative costs, or other costs and activities that are in compliance with the Environmental Review Procedures stated in 24 CFR 58.

These pre-award costs will be limited to not more than 25% of the NSP3 allocation (\$256,838.50.50) and may be used for general planning, administration, and property acquisition activities only. All other activities will commence on or after the date of the grant agreement.

These pre-award costs are not anticipated to have any affect on future grants.

8. Future amendments and opportunities for public comment.

Dearborn's Neighborhood Stabilization Program anticipates the generation of program income (net proceeds from resale/development transactions). Programming and reuse of that program income for any of the activities already described in this document are contemplated by this program and therefore shall not be considered to be an amendment to this plan and shall not be subject to further public comment requirements.

Due to the emergency nature of this funding and the desire to implement and complete projects and activities as rapidly as possible, the reallocation of program funding between activities is also contemplated by this plan. Therefore, such reallocations shall not be considered to be an amendment to this plan and shall not be subject to further public comment requirements.

The addition of activities not already described in this plan or changes to NSP3 target areas shall be treated as a substantial amendment to this plan and shall be the subject of a 15-day public comment period.

Any plan amendment, with or without a required public comment period as described above, shall be subject to any applicable local and federal requirements, reviews and approvals.

9. Anti-Displacement and Relocation.

The City of Dearborn's Anti-Displacement and Relocation Policy, as contained in its 2010-2015 Housing & Community Development Consolidated Plan and related Action Plans is:

"To the extent practical, the City of Dearborn shall avoid the involuntary displacement of any residential household. However, if an involuntary displacement should occur, the City will provide housing referral assistance and will, if required, make relocation assistance payments in accordance with local, state and federal law."

For the purposes of this Neighborhood Stabilization Program, the City of Dearborn will ensure compliance with this policy through the purchase of abandoned or foreclosed properties that are vacant.

NSP3 financed acquisition of property shall be a voluntary transaction (without threat of eminent domain); and, the offer to purchase shall contain information and notice as required by the Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA). Furthermore, the seller shall attest to and confirm their compliance with the provisions of the Protecting Tenants at Foreclosure Act (Title VII of the Helping Families Save Their Homes Act of 2009), and will indemnify and hold the City of Dearborn harmless for any costs related to failure to comply with provisions of the Act.

10. Property Acquisition.

The acquisition of an abandoned or foreclosed upon home or residential property under this NSP3 plan shall be at a discount from the current-market appraised value of the property. Dearborn's NSP will negotiate the maximum reasonable purchase discount, taking into consideration the likely "carrying cost" savings to the seller and the current condition of the property. The minimum purchase discount for any NSP-assisted acquisition shall be 1%.

Current-market appraised value will be determined by an independent appraiser certified by the State of Michigan and in conformity with the appraisal requirements of the URA at 49 CFR 24.103 and completed within 60 days of the final purchase offer.

However, if the anticipated value of the proposed acquisition (as indicated by the current asking price) is \$25,000 or less, the current-market appraised value may be established by:

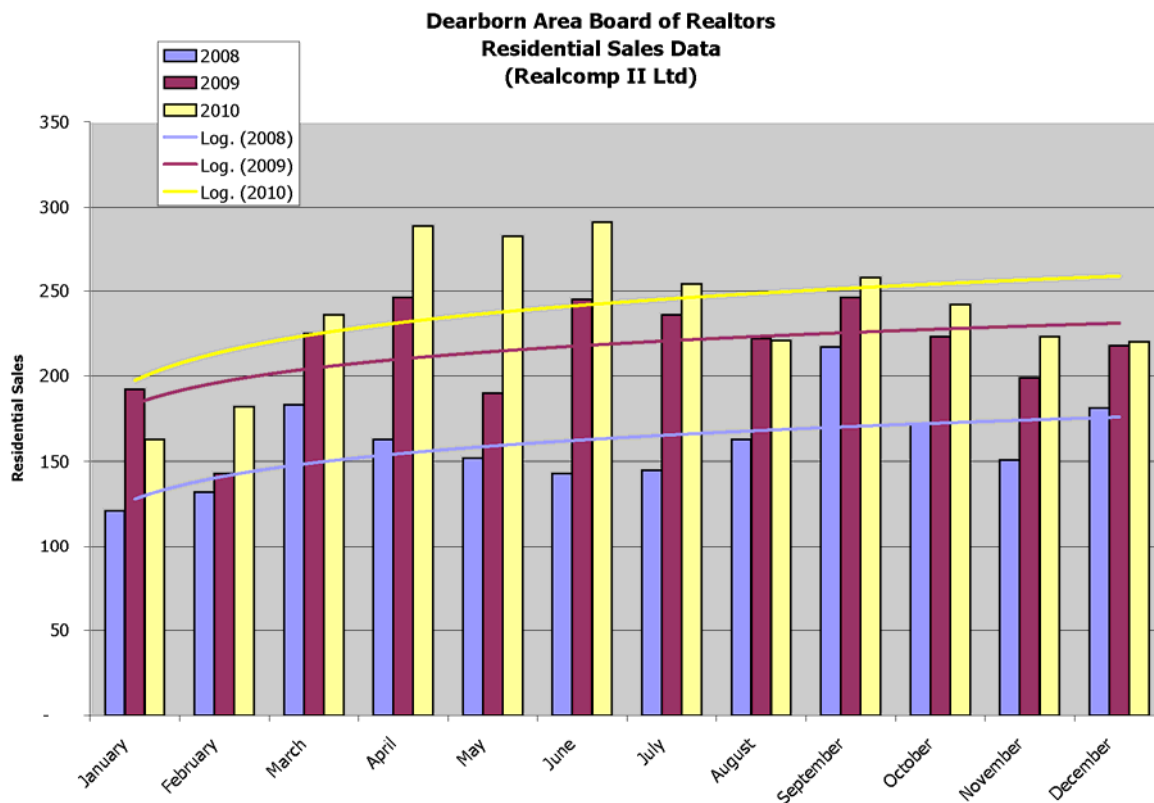
- a. An independent current market appraisal as previously described;
- b. An independent appraisal that is not more than 120-days old or the property land value as determined by the Department of Assessment, whichever is lower; or,
- c. The mid-value of the current property value range as determined by the Department of Assessment.

D. Housing Market Conditions

Real estate professional members of the Dearborn Area Board of Realtors (DABOR) provide residential home sale services throughout Dearborn and Dearborn Heights.

DABOR residential sales data, as provided through Realcomp II Ltd, reflect a positive but leveling trend in the number of homes sales over the period from January 2008 to December 2010.

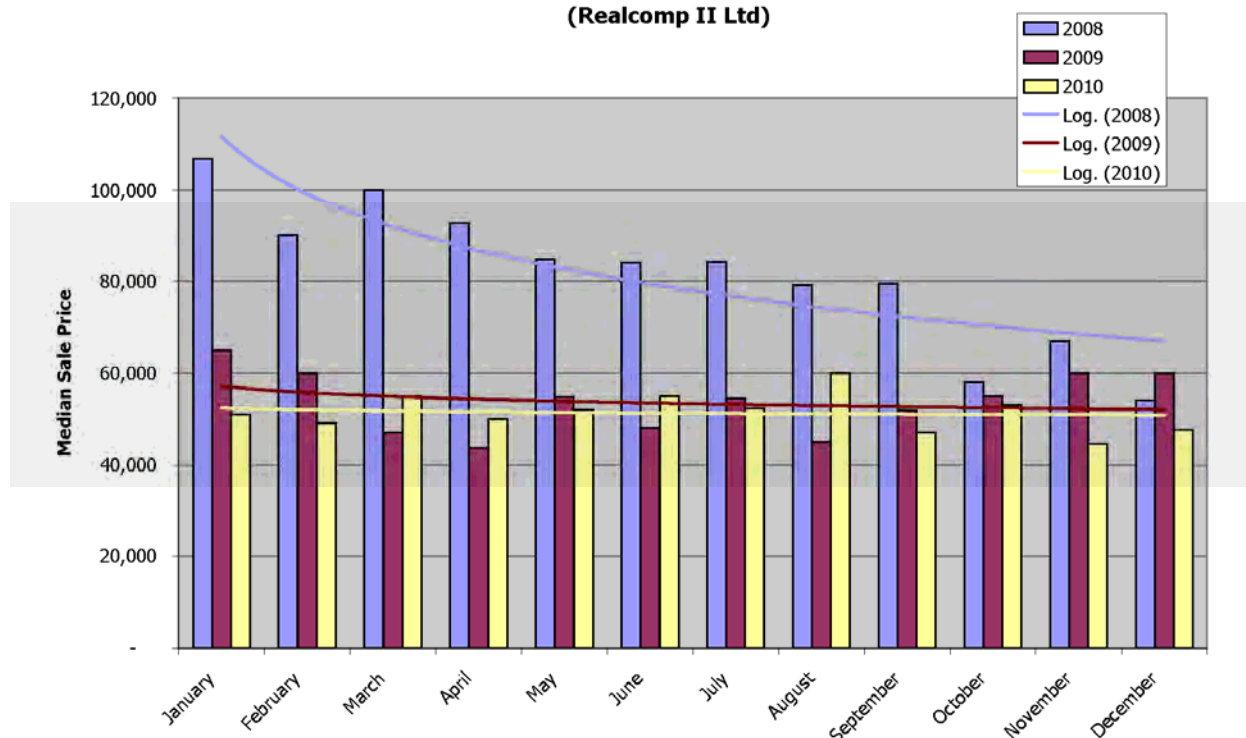
The spikes in the number of home sales in mid-2010 may be attributed to the homebuyer tax credit that was authorized by the “Homebuyers Assistance and Improvement Act of 2010.”



The improving number of sales is only one indicator of the health of the housing market. The trend in housing sale prices (depicted in the chart below) is of equal or greater importance.

The chart depicts a continuing decline in median home sale prices, from a high of \$106,800 in January 2008 to \$47,600 in December 2010. The most significant declines occurred in 2008. Median sales figures for 2009 and 2010, while declining, appear to be leveling out.

**Dearborn Area Board of Realtors
Median Sale Price
(Realcomp II Ltd)**



Although the charts above display improvement (housing sales) and stabilization (sale price), there is still much work to be done. Without continued effort, the market improvements realized through the homebuyer tax credit program will not be sustained.

DABOR data does not track sales data by transaction type (investor-owner vs. owner-occupant). Declining median sale prices are attracting significant investment from rental housing developers/managers. The increasing numbers of rental housing units in our already stressed, single-family housing neighborhoods is reducing the appeal and demand for owner-occupied housing in those same neighborhoods.

To address the trend toward rental housing, NSP3 funding in our single-family neighborhoods will be limited to demolition activities or acquisition and renovation for resale to owner-occupants. Blighted properties have a considerable negative impact on adjacent property values. Demolition activities will not only help to stabilize property values, but will also keep those substandard properties out of investor hands. Homebuyer activities will help to increase the number of owner-occupied units, while ensuring that those renovated units set a new, higher standard for neighborhood housing conditions.

Rental housing preference activities (as previously described in the “Definitions and Descriptions” section) will be limited to multi-family housing projects in the downtown target area.

E. Low-Income Targeting

Not less than 25% of NSP3 grant funding (\$256,838.50) shall be used to provide housing for individuals or families whose income does not exceed 50% of area median income.

This substantial amendment proposes to achieve this goal through a multi-family rental housing development activity in the EDDDA target area (Redico-Senior Living, multi-family housing development).

If the actual NSP3 investment in the Redico project or other similar downtown rental development project is insufficient to meet this target, low-income homebuyer's will receive preference in the resale of renovated single-family properties until the goal is achieved.

The City of Dearborn may engage its Public Housing Authority (PHA), members of the Out-Wayne County Homeless Services Coalition (the continuum of care agency for our area), and other local housing and social service providers to identify special needs populations that may be underserved by current availability of affordable housing.

F. Demolition or Conversion of Low-Moderate Income Units

A housing unit is considered to be a low-moderate income unit if it is:

- a. In standard condition suitable for occupancy, with an affordable rental or mortgage value; or
- b. Legally occupied by a low-moderate income household.

NSP3 financed demolition activities will be limited to vacant, blighted/substandard structures. Therefore, the demolition of low-moderate income units is not contemplated. [Demolition activity is expected to finance the clearance of 7-10 blighted properties.]

NSP3 financed acquisition-rehabilitation of single-family homes (1-2 unit structures), could include the conversion/loss of low-moderate income units in certain circumstances. If funded, the acquisition-rehabilitation activity will occur in the NSP3-East target area. Due to small lot frontages, this target area is very densely populated and congested. Density reduction is one of the primary stabilization tools in use in this area. [Activity not currently funded. If funds are reallocated, the activity is estimated to provide one housing unit per \$120,000 invested.]

If a two-family structure is selected and acquired for NSP3 rehabilitation assistance, renovation plans may include conversion to a one-family structure. In the unlikely circumstance that both of the units are in standard condition at the time of acquisition, one of the two standard, low-moderate units may be lost.

G. Public Comment

The City of Dearborn included the HUD Neighborhood Stabilization Program (**HUD-NSP**) as a topic at its annual Housing & Community Development Needs and Priorities public hearing on October 27, 2010. A notice announcing the public hearing was published in the October 13, 2010 edition of the Dearborn Press & Guide and was also mailed to members of our Citizen Participation Plan (**CPP**) mailing list.

The Economic and Community Development Department request for City Council authorization to prepare and submit this amendment provided four opportunities for input: (1) Agenda Item Meeting (internal), December 28, 2010; (2) Mayor's Briefing Session (public), December 28, 2010; (3) Council Committee of the Whole, December 29, 2010; and, (4) regular Council Meeting, January 4, 2011.

The draft NSP3 Substantial Amendment was published for a 15-day comment period beginning February 9, 2011 and ending February 23, 2011. Publication included a notice in the February 9, 2011 edition of the Dearborn Press & Guide, a mailing to members of the CPP mail list, and availability of the draft document at all Dearborn Public Library branches, the Economic and Community Development Department and online at www.cityofdearborn.org.

[Enter Comments Here]

H. NSP3 Information by Activity

1. Downtown Rental Housing Development

Uses	Select all that apply:	
	<input type="checkbox"/>	Eligible Use A: Financing Mechanisms
	<input checked="" type="checkbox"/>	Eligible Use B: Acquisition and Rehabilitation
	<input type="checkbox"/>	Eligible Use C: Land Banking
	<input type="checkbox"/>	Eligible Use D: Demolition
	<input checked="" type="checkbox"/>	Eligible Use E: Redevelopment
CDBG Activity or Activities	570.201(a), Acquisition 570.201(b), Disposition 570.202, Rehabilitation Special Activities (New Construction)	
National Objective	Low-Income Housing to Meet 25% Set-Aside (LH25) and Low Moderate Middle Income Housing (LMMH)	
Activity Description	New construction of multi-family rental housing as part of the redevelopment of demolished or vacant properties. Or, acquisition and rehabilitation of abandoned or foreclosed upon multi-family residential rental properties.	
Location Description	EDDDA (downtown) target district—Needs Score 18.0	
Budget	Source of Funding	Dollar Amount
	NSP3-LI Housing (LH25)	\$256,838.50 (minimum)
	NSP3-LMMI Housing (LMMH)	\$565,045.50
	Michigan Business Tax Credits Developer Financing Other	(to be determined)
Total Budget for Activity		\$821,884.00
Performance Measures	2-3 housing units for rental to LI households 3-5 housing units for rental to LMMI households	
Projected Start Date	April 1, 2011	
Projected End Date	March 31, 2014	
Responsible Organization	Name	City of Dearborn Economic & Community Development
	Location	13615 Michigan Ave, Dearborn 48126
	Administrator Contact Info	Barry S. Murray, Director bmurray@ci.dearborn.mi.us 313-943-2195

2. Acquisition-Rehabilitation for Resale to Qualified Homebuyers

Uses	Select all that apply:	
	<input checked="" type="checkbox"/>	Eligible Use A: Financing Mechanisms
	<input checked="" type="checkbox"/>	Eligible Use B: Acquisition and Rehabilitation
	<input type="checkbox"/>	Eligible Use C: Land Banking
	<input type="checkbox"/>	Eligible Use D: Demolition
	<input type="checkbox"/>	Eligible Use E: Redevelopment
CDBG Activity or Activities	570.201(a), Acquisition 570.201(b), Disposition 570.201(n), Homeownership 570.202, Rehabilitation 570.206, Activity Delivery Costs	
National Objective	Low-Income Housing to Meet 25% Set-Aside (LH25) and Low Moderate Middle Income Housing (LMMH)	
Activity Description	Acquisition and rehabilitation of abandoned or foreclosed single-family residential properties, for resale to qualified LI or LMMI homebuyers. Homebuyer financial assistance may be provided in the form of subsidized mortgage principal amounts, reasonable closing costs, and up to 50% of required down payment amounts. Homebuyer financial assistance shall be subject to adopted guidelines and procedures as may be amended. Current adopted guidelines provide that the assistance is provided in the form of a zero-interest, deferred loan.	
Location Description	NSP3-East Target Area—Needs Score 18.30	
Budget	Source of Funding	Dollar Amount
	NSP3-LI Housing (LH25)	\$0 (initial allocation)
	NSP3-LMMI Housing (LMMH)	\$0 (initial allocation)
	<i>Funding may be reallocated to this activity if it is no longer needed in other approved activities.</i>	
Total Budget for Activity		\$0.00 (initial allocation)
Performance Measures	Housing units for LI/LMMI Households (average \$120,000 per unit)	
Projected Start Date	April 1, 2012	
Projected End Date	March 31, 2014	
Responsible Organization	Name	City of Dearborn Economic & Community Development
	Location	13615 Michigan Ave, Dearborn 48126
	Administrator Contact Info	Michelle DaRos, Deputy Director mdaros@ci.dearborn.mi.us 313-943-4150

3. Demolition of Blighted Structures

Uses	Select all that apply:	
	<input type="checkbox"/>	Eligible Use A: Financing Mechanisms
	<input type="checkbox"/>	Eligible Use B: Acquisition and Rehabilitation
	<input type="checkbox"/>	Eligible Use C: Land Banking
	<input checked="" type="checkbox"/>	Eligible Use D: Demolition
	<input type="checkbox"/>	Eligible Use E: Redevelopment
CDBG Activity or Activities	570.201(d), Clearance (for blighted structures only)	
National Objective	Low Moderate Middle Income Area Benefit (LMMA)	
Activity Description	Demolition only of blighted structures.	
Location Description	NSP3-East Target Area—Needs Score 18.30 NSP3-West Target Area—Needs Score 17.00	
Budget	Source of Funding	Dollar Amount
	NSP3-LMMA	\$102,735.00 (10% Maximum)
	<i>For city-owned (acquired with local funding) blighted properties that receive this NSP3 assistance, a pro-rata portion of any resale revenue shall be treated as NSP3 program income.</i>	
Total Budget for Activity		\$102, 735.00
Performance Measures	Clearance of 7-10 blighted properties NSP3-East, 83.08% LMMI Benefit Area NSP3-West, 58.32% LMMI Benefit Area	
Projected Start Date	April 1, 2011	
Projected End Date	March 31, 2014	
Responsible Organization	Name	City of Dearborn Economic & Community Development
	Location	13615 Michigan Ave, Dearborn 48126
	Administrator Contact Info	Michelle DaRos, Deputy Director mdaros@ci.dearborn.mi.us 313-943-4150

4. Planning and Administration

Uses	Select all that apply:	
	<input type="checkbox"/>	Eligible Use A: Financing Mechanisms
	<input type="checkbox"/>	Eligible Use B: Acquisition and Rehabilitation
	<input type="checkbox"/>	Eligible Use C: Land Banking
	<input type="checkbox"/>	Eligible Use D: Demolition
	<input type="checkbox"/>	Eligible Use E: Redevelopment
CDBG Activity or Activities	570.206, General Program Administration	
National Objective	Not Applicable	
Activity Description	Grant administration and planning activities	
Location Description	Not Applicable	
Budget	Source of Funding	Dollar Amount
	NSP3	\$102,735.00 (10% Maximum)
Total Budget for Activity		\$102, 735.00
Performance Measures	Timely administration of grant activities	
Projected Start Date	April 1, 2011	
Projected End Date	March 31, 2015	
Responsible Organization	Name	City of Dearborn Economic & Community Development
	Location	13615 Michigan Ave, Dearborn 48126
	Administrator Contact Info	Michelle DaRos, Deputy Director mdaros@ci.dearborn.mi.us 313-943-4150

I. SF-424 Application for Federal Assistance

Application for Federal Assistance SF-424		Version 02
*1. Type of Submission: <input type="checkbox"/> Preapplication <input checked="" type="checkbox"/> Application <input type="checkbox"/> Changed/Corrected Application		*2. Type of Application * If Revision, select appropriate letter(s) <input checked="" type="checkbox"/> New <input type="checkbox"/> Continuation <input type="checkbox"/> Revision *Other (Specify) _____
3. Date Received:		4. Applicant Identifier:
5a. Federal Entity Identifier:		*5b. Federal Award Identifier: B-10-xx-26-0001
State Use Only:		
6. Date Received by State:		7. State Application Identifier:
8. APPLICANT INFORMATION:		
*a. Legal Name: City of Dearborn		
*b. Employer/Taxpayer Identification Number (EIN/TIN): 38-6004605		*c. Organizational DUNS: 142420798
d. Address:		
*Street 1: <u>Economic & Community Development Department</u>		
Street 2: <u>13615 Michigan Avenue, Suite 9</u>		
*City: <u>Dearborn</u>		
County: <u>Wayne</u>		
*State: <u>Michigan</u>		
Province: _____		
*Country: <u>USA</u>		
*Zip / Postal Code <u>48126-3582</u>		
e. Organizational Unit:		
Department Name: Economic & Community Development		Division Name: N/A
f. Name and contact information of person to be contacted on matters involving this application:		
Prefix: <u>Ms.</u> *First Name: <u>Michelle</u>		
Middle Name: <u>M.</u>		
*Last Name: <u>DaRos</u>		
Suffix: _____		
Title: <u>Deputy Director</u>		
Organizational Affiliation: <u>Economic & Community Development</u>		
*Telephone Number: 313-943-4150		Fax Number: 313-943-2776
*Email: <u>mdaros@ci.dearborn.mi.us</u>		

Application for Federal Assistance SF-424		Version 02
*9. Type of Applicant 1: Select Applicant Type: C. City or Township Government Type of Applicant 2: Select Applicant Type: Type of Applicant 3: Select Applicant Type: *Other (Specify)		
*10 Name of Federal Agency: U. S. Department of Housing and Urban Development		
11. Catalog of Federal Domestic Assistance Number: 14.218 CFDA Title: Community Development Block Grant (Entitlement)		
*12 Funding Opportunity Number: n/a *Title:		
13. Competition Identification Number: n/a Title:		
14. Areas Affected by Project (Cities, Counties, States, etc.): City of Dearborn, NSP Target Areas: NSP3-East, NSP3-West, and EDDDA		
*15. Descriptive Title of Applicant's Project: HUD Neighborhood Stabilization Program (Dodd-Frank)		
16. Congressional Districts Of: *a. Applicant: 14 th /15 th Michigan *b. Program/Project: 14 th /15 th Michigan		
17. Proposed Project: *a. Start Date: April 1, 2011 *b. End Date: March 31, 2015		
18. Estimated Funding (\$):		
*a. Federal	\$ 1,027,354	
*b. Applicant		
*c. State		
*d. Local		
*e. Other	tbd	
*f. Program Income	tbd	
*g. TOTAL	\$ 1,027,354	
*19. Is Application Subject to Review By State Under Executive Order 12372 Process? <input type="checkbox"/> a. This application was made available to the State under the Executive Order 12372 Process for review on _____ <input type="checkbox"/> b. Program is subject to E.O. 12372 but has not been selected by the State for review. <input checked="" type="checkbox"/> c. Program is not covered by E. O. 12372		

***20. Is the Applicant Delinquent On Any Federal Debt? (If "Yes", provide explanation.)**☐ Yes ☒ No

21. *By signing this application, I certify (1) to the statements contained in the list of certifications** and (2) that the statements herein are true, complete and accurate to the best of my knowledge. I also provide the required assurances** and agree to comply with any resulting terms if I accept an award. I am aware that any false, fictitious, or fraudulent statements or claims may subject me to criminal, civil, or administrative penalties. (U. S. Code, Title 218, Section 1001)

☒ ** I AGREE

** The list of certifications and assurances, or an internet site where you may obtain this list, is contained in the announcement or agency specific instructions

Authorized Representative:

Name: Mayor John B. O'Reilly, Jr.

*Title: Mayor, City of Dearborn

*Telephone Number: 313-943-2300

Fax Number: 313-943-3070

* Email: mayororeilly@ci.dearborn.mi.us

*Signature of Authorized Representative: (CR# 1-13-11)

*Date Signed:

J. Certifications for Entitlement Communities

- (1) **Affirmatively further fair housing.** The jurisdiction certifies that it will affirmatively further fair housing, which means that it will conduct an analysis to identify impediments to fair housing choice within the jurisdiction, take appropriate actions to overcome the effects of any impediments identified through that analysis, and maintain records reflecting the analysis and actions in this regard.
- (2) **Anti-displacement and relocation plan.** The applicant certifies that it has in effect and is following a residential anti-displacement and relocation assistance plan.
- (3) **Anti-lobbying.** The jurisdiction must submit a certification with regard to compliance with restrictions on lobbying required by 24 CFR part 87, together with disclosure forms, if required by that part.
- (4) **Authority of jurisdiction.** The jurisdiction certifies that the consolidated plan or abbreviated plan, as applicable, is authorized under state and local law (as applicable) and that the jurisdiction possesses the legal authority to carry out the programs for which it is seeking funding, in accordance with applicable HUD regulations and other program requirements.
- (5) **Consistency with plan.** The jurisdiction certifies that the housing activities to be undertaken with NSP funds are consistent with its consolidated plan or abbreviated plan, as applicable.
- (6) **Acquisition and relocation.** The jurisdiction certifies that it will comply with the acquisition and relocation requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 U.S.C. 4601), and implementing regulations at 49 CFR part 24, except as those provisions are modified by the notice for the NSP program published by HUD.
- (7) **Section 3.** The jurisdiction certifies that it will comply with section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u), and implementing regulations at 24 CFR part 135.
- (8) **Citizen participation.** The jurisdiction certifies that it is in full compliance and following a detailed citizen participation plan that satisfies the requirements of Sections 24 CFR 91.105 or 91.115, as modified by NSP requirements.
- (9) **Following a plan.** The jurisdiction certifies it is following a current consolidated plan (or Comprehensive Housing Affordability Strategy) that has been approved by HUD. [Only States and entitlement jurisdictions use this certification.]
- (10) **Use of funds.** The jurisdiction certifies that it will comply with the Dodd-Frank Wall Street Reform and Consumer Protection Act and Title XII of Division A of the American Recovery and Reinvestment Act of 2009 by spending 50 percent of its grant funds within 2 years, and spending 100 percent within 3 years, of receipt of the grant.

(11) **The jurisdiction certifies:**

- a. that all of the NSP funds made available to it will be used with respect to individuals and families whose incomes do not exceed 120 percent of area median income; and
- b. The jurisdiction will not attempt to recover any capital costs of public improvements assisted with CDBG funds, including Section 108 loan guaranteed funds, by assessing any amount against properties owned and occupied by persons of low- and moderate-income, including any fee charged or assessment made as a condition of obtaining access to such public improvements. However, if NSP funds are used to pay the proportion of a fee or assessment attributable to the capital costs of public improvements (assisted in part with NSP funds) financed from other revenue sources, an assessment or charge may be made against the property with respect to the public improvements financed by a source other than CDBG funds. In addition, with respect to properties owned and occupied by moderate-income (but not low-income) families, an assessment or charge may be made against the property with respect to the public improvements financed by a source other than NSP funds if the jurisdiction certifies that it lacks NSP or CDBG funds to cover the assessment.

(12) **Excessive force.** The jurisdiction certifies that it has adopted and is enforcing:

- a. A policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in nonviolent civil rights demonstrations; and
- b. A policy of enforcing applicable state and local laws against physically barring entrance to, or exit from, a facility or location that is the subject of such nonviolent civil rights demonstrations within its jurisdiction.

(13) **Compliance with anti-discrimination laws.** The jurisdiction certifies that the NSP grant will be conducted and administered in conformity with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), the Fair Housing Act (42 U.S.C. 3601-3619), and implementing regulations.

(14) **Compliance with lead-based paint procedures.** The jurisdiction certifies that its activities concerning lead-based paint will comply with the requirements of part 35, subparts A, B, J, K, and R of this title.

(15) **Compliance with laws.** The jurisdiction certifies that it will comply with applicable laws.

(16) **Vicinity hiring.** The jurisdiction certifies that it will, to the maximum extent feasible, provide for hiring of employees that reside in the vicinity of NSP3 funded projects or contract with small businesses that are owned and operated by persons residing in the vicinity of NSP3 projects.

(17) **Development of affordable rental housing.** The jurisdiction certifies that it will abide by the procedures described in its NSP3 Abbreviated Plan to create preferences for the development of affordable rental housing for properties assisted with NSP3 funds.

Signature/Authorized Official

Date

Mayor John B. O'Reilly, Jr.
Name/Title

AN ORDINANCE TO OFFER FINANCIAL
INCENTIVES FOR BARRIER-FREE RESIDENTIAL
CONSTRUCTION FOR VISITABILITY
THE CITY OF ESCANABA ORDAINS:

CHAPTER I

Chapter 6 is hereby amended by adding Article III Section 6.36

through 6.39 as follows:

SECTION 6.36 GENERAL PURPOSES

The provisions of this ordinance are enacted to implement a voluntary compliance policy that encourages new single family dwellings to be constructed using design features that provide visitability features, and to promulgate visitability standards that will economically provide greater opportunity for visitability in single family homes.

SECTION 6.37 APPLICABILITY

Compliance with this ordinance is voluntary. Porperty owners that incorporate the design features of this ordinance will be eligible for a \$150.00 cash rebate after a compliance inspection is conducted.

SECTION 6.38 ADMINISTRATION AND ENFORCEMENT

The City Manager shall monitor the administration of this ordinance.

SECTION 6.39 DESIGN AND CONSTRUCTION REQUIREMENT

The following general design and construction requirements must be met before a rebate is given:

- (1) **Building Entrances.** A single family dwelling must provide at lease one building entrance that complies with the State of Michigan Residential Building Code standard for an accessible entrance on an accessible route served by a ramp or no-step entrance. A building entrance door must have a minimum net clear opening of 36 inches.
- (2) **Building Entrance Location.** The entrance may be at the front, side, or back of a dwelling as long as it is served by an accessible route such as a garage or sidewalk.
- (3) **Visitable Route.** The required no step entrance shall be accessed via a visitable route that meets the

requirements of this ordinance.

(4) **Grade.** Sidewalks and ramps that are part of the visitable route shall have a maximum slope and length as follows:

Sidewalks. 1/20 N/L

Type 1 Ramp. 1/8 5' (Max 7.5" rise)

Type 2 Ramp. 1/10 12' (Max 14.5" rise)

Type 3 Ramp. 1/12 30' (Between Landings)

Width. The route shall have a minimum clear width of 36 inches.

Landings. Landings in a visitable route shall be not less than 36" by 36" clear or shall meet the Michigan Accessibility Code whichever is greater.

Surfaces. Surfaces shall be non-slip.

Drainage. Cross slope shall be no greater than 1/50.

(5) **Doors/Opening.** Except for a door that provides access to a closet of fewer than 15 square feet in area, doors located on the first floor of a dwelling unit must have a minimum clear opening of at least 32 inches. Lever door handle hardware is required on the affected doors.

(6) **Accessible Routes Within the Dwelling Unit.** A dwelling unit must provide an accessible route through the hallways and passageways of the first floor of the dwelling unit. The route must provide a minimum width of 36 inches and be level with ramped or beveled changes at door thresholds.

(7) **Wall reinforcement.** First floor bathroom walls of the dwelling unit must be designed and constructed with reinforcements using wood blocking, spacing and grabbars.

(8) **Wood Blocking.** Lateral two-inche x six-inch or larger nominal wood blocking must be installed flush with stud engines of bathroom walls.

(9) **Block Spacing.** The centerline of blocking must be 34 inches from and parallel to the floor.

(10) **Grabbars.** Grabbars must be provided which complies with

the State of Michigan Residential Building standard for accessibility.

(11) **Light Switches.** The first floor bathroom must have a light switch no higher than 42 inches above the floor which is adjacent to an accessible route.

(12) **GFCI Duplex Receptacle.** The bathroom must have at least

one duplex receptacle which is at least 18 inches above

the ground, and adjacent to an accessible route.

CHAPTER II

SAVINGS CLAUSE

If any section, subsection, sentence, clause or phrase of the within Ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance, section subsection sentence, clause, phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional.

CHAPTER III

REPEALING CHAPTER

All ordinances or parts of ordinances in conflict with the provision of this ordinance are hereby repealed.

CHAPTER IV

EFFECTIVE DATE

This Ordinance shall be in full force and effect ten (10) days after its passage and publication.

APPROVED: APPROVED:

Ralph B. K. Peterson Judi Schwalbach
City Attorney Mayor
ATTEST:

Robert S. Richards
City Clerk

I hereby certify that the above and foregoing Ordinance was duly passed and adopted at a meeting of the City Council held on

day of _____, 2002, and was published in the Daily Press, a newspaper of general circulation in the City of Escanaba, on the _____ day of _____, 2002.

Robert S. Richards
City Clerk


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Visitability and Easy Living Homes are for Everyone

Visitability, sometimes called Basic Home Access or Inclusive Home Design, is a campaign for a few essential features to be incorporated into newly constructed single family home design. The essential features are:

- One zero-step entrance
- All interior doors with a minimum of 32 inches (more is better) of clear passage space
- At least a half-bath (preferably a full bath) on the main floor

The concept of Visitability has evolved into the idea of the Easy Living Home which also has three main features, Easy Access, Easy Passage, and Easy Use:

- Easy Access – a step-free entrance with a threshold of not more than one-half inch from a driveway, sidewalk, or other firm route into the main floor.
- Easy Passage – a minimum of 32 inches of clear passage space for every interior passage door on the main floor and the exterior door that provides the step-free entrance.
- Easy Use – no less than one bedroom, a kitchen, some entertainment area, and at least one full bathroom with designated maneuvering space, all on the main floor.

The key to the success of the Easy Living Home concept is that it is access for everyone containing features that are cost effective, attractive, accessible, visitable, and convenient for all persons. The sale and resale value of a home is enhanced when it contains Easy Living Home features. There is now a national Easy Living Home network of organizations that certify homes that meet the Easy Living Homes standard of features and quality, as well as to encourage builders of single-family homes to voluntarily incorporate these features in their home construction.

In Virginia, the Easy Living Home program is administered by Virginia Accessible Housing Solutions, Inc., a non-profit corporation licensed to certify Easy Living Homes in Virginia. VAHS represents a broad coalition of homebuilders, seniors, Virginia State government, and people with disabilities, who believe that Easy Living Homes not only makes dollars and sense, but is the right thing to do.

Builders who are interested in being a certified builder of Easy Living Homes, or smart home buyers who want these sensible and desirable features in their home can contact VAHS for the application process, and/or for information on the program to include a current list of Easy Living Builders in Virginia. Contact:

Virginia Accessible Housing Solutions, Inc.
707 East Franklin Street
Richmond, Virginia 23219
804-643-3279

Contact Fairfax County: [Phone](#), [Email](#) or [Twitter](#) | Main Address: [12000 Government Center Parkway](#), Fairfax, VA 22035

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Fresno, California, Code of Ordinances >> - MUNICIPAL CODE OF THE CITY OF FRESNO >> CHAPTER 11 - BUILDING PERMITS AND REGULATIONS >> ARTICLE 1 CALIFORNIA BUILDING, RESIDENTIAL, ELECTRICAL, MECHANICAL, PLUMBING, AND ENERGY CODE >>

ARTICLE 1 CALIFORNIA BUILDING, RESIDENTIAL, ELECTRICAL, MECHANICAL, PLUMBING, AND ENERGY CODE ^[1]

[SEC. 11-101. CALIFORNIA BUILDING CODE.](#)

[SEC. 11-102. AMENDMENTS TO THE CALIFORNIA BUILDING CODE.](#)

[SEC. 11-103. CALIFORNIA RESIDENTIAL CODE.](#)

[SEC. 11-104. CALIFORNIA ELECTRICAL CODE.](#)

[SEC. 11-105. CALIFORNIA MECHANICAL CODE.](#)

[SEC. 11-106. AMENDMENTS TO THE CALIFORNIA MECHANICAL CODE.](#)

[SEC. 11-107. CALIFORNIA PLUMBING CODE.](#)

[SEC. 11-108. CALIFORNIA ENERGY CODE.](#)

[SEC. 11-109. CALIFORNIA GREEN BUILDING STANDARDS.](#)

[SEC. 11-110. UNIVERSAL DESIGN STANDARD.](#)

SEC. 11-101. CALIFORNIA BUILDING CODE.

The California Building Code, 2010 Edition, which may be referred to in this Code as the CBC, as promulgated by the California Building Standards Commission, which incorporates the adoption of the 2009 edition of the of the International Building Code as amended with necessary California amendments and the 2009 International Building Code of the International Code Council, with the exception of Appendix B, are adopted and incorporated by reference into the Code and shall be referred to, along with the City's amendments to the CBC provided in Section 11-102, as the Fresno Building Code.

One copy of the CBC is on file and available for use by the public in the Development and Resource Management Department, Building and Safety Services Division.

(Added Ord. 2010-49, § 3, eff. 1-16-11).

SEC. 11-102. AMENDMENTS TO THE CALIFORNIA BUILDING CODE.

Pursuant to Health and Safety Code Sections 17958.7 and 18941.5, and section 1.1.8 of the CBC, the following provisions shall constitute local agency amendments to the CBC. The following provisions shall be inserted into the CBC based upon the chapter headings, appendices (if applicable) and section numbers indicated. If the section number is the same number as a number used in the CBC, the provision provided below is intended to replace the same numbered provision in the CBC.

CBC Chapter 1

103.1 Creation of the Enforcement Agency. The Development and Resource Management Department of the City of Fresno is hereby established in the City of Fresno as the appropriate code enforcement agency that shall be under the administrative and operational control of the Department Director.

104.1 General. The Director of the Development and Resource Management Department or his/her designee shall act on behalf of the City of Fresno as "Building Official". The Building Official is hereby authorized and directed to enforce all provisions of this code. The Building Official shall have the power to render interpretations of this code and to adopt and enforce rules and supplemental regulations in order to clarify the application of the code provisions.

109.1 Schedule of Fees. All fees assessed in accordance with the provisions of the Fresno Building Code shall be set forth in the City of Fresno Master Fee Resolution.

109.5 Related Fees. Where plans are of such complexity, incomplete, or are changed so as to require additional plan review time than contemplated by the fees set forth herein, an additional fee shall be charged in accordance with the special services request provision under the Master Fee Resolution with the following exceptions:

- a) A plan review fee will not be required for single-family dwelling additions and alterations, or repairs with a valuation of less than \$1000.00 dollars.
- b) For single-family dwelling plans accepted as a "Standard Plan", the plan review fee shall be set forth in the Master Fee Resolution; however, additional plan review fees shall not be charged for subsequent permits for an identical residential building located with similar physical separation, orientation with respect to property lines, and other buildings with similar utility services and within the same tract.
- c) For commercial plans accepted as a "Standard Plan", the plan review fee shall be as determined by the Building Official. The fee shall be based upon circumstances pertaining to the specific application and shall be designed to recover reasonable costs of the Development and Resource Management Department.

110.3.8 Other Inspections. The Building Official may at his/her discretion require inspections of differing trades to be combined in proper chronological order consistent with construction practices to facilitate the use of combination inspection assignments.

112.1 Connection of Service Utilities. Utility connections shall not be permitted until compliance with the provisions of the Fresno Municipal Code as set herein. Electrical Meter: Electrical meters shall be required to be in place and operational prior to final electrical inspection to facilitate testing and acceptance of the entire system. Installation of devices, fixtures, and wiring shall be completed and in working order for testing purposes.

112.2.1 Construction Utilities. The Building Official may permit use of utilities for the purpose of construction provided no potential hazards to life or property is created and compliance with Article 590, CEC (Electrical) or Section 1208.0 CPC (Gas) is satisfied.

112.2 Temporary Power. The Building Official may permit use of utilities for temporary occupancy of a building or structure when circumstances exist to justify the issuance of a Temporary Certificate under [Chapter 1](#) Section 111.3 of the CBC, and the owner enters into a security agreement with the City of Fresno, in a form approved by the Building Official, to insure completion of the required improvements. In addition, a deposit to secure such performance shall be made with the City of Fresno in an amount determined by the Building Official. The Building Official may, in his/her sole discretion, waive the requirement of a deposit.

Section 113 Board of Appeals Note.

Note: For additional requirements refer to [Section 10-50108](#) of the Fresno Fire Code as established by the City of Fresno Fire Department.

113.1. General. In order to hear and decide appeals of orders, decisions or determinations by the Building Official relative to the application and interpretation of the Fresno Building Code, there shall be and is hereby created a board of appeals (hereafter referred to as the "Building Standards Appeals Board") consisting of members who are qualified by experience and training to pass on matters pertaining to building construction and who are not employees of the City of Fresno. The Building Standards Appeals Board shall perform the following appeal duties:

- a) Determine the suitability of alternate materials, engineering designs, methods of construction and equipment.
- b) Provide reasonable interpretations of the provisions of the Fresno Building Code and other relevant codes.
- c) Hear and decide appeals from the orders of the Building Officials directing the vacation, repair, rehabilitation or demolition of dangerous buildings under the provisions of [Chapter 11](#), Article 3 of the Fresno Municipal Code.
- d) Hear and decide appeals pursuant to the provisions of [Section 10-50108](#) of the Fresno Municipal Code.
- e) Hear and decide appeals from orders of the Building Official directing the vacation, repair, rehabilitation or demolition of substandard buildings under the provisions of [Chapter 11](#), Article 4 of the Fresno Municipal Code.

The Building Official shall serve as an ex officio member of and shall act as secretary to said board but shall have no vote on any matter before the board. The Building Standards Appeals Board shall be appointed by the Mayor and shall hold office at the pleasure of the Mayor.

The Building Standards Appeals Board shall adopt rules of procedure for conducting its business, and shall render all decisions and findings in writing to the appellant with a duplicate copy to the Building Official.

113.2.1 Limitations of Authority. The Building Standards Appeals Board shall have no authority relative to interpretation of the administrative provisions of this code nor shall the board be empowered to waive requirements of this code.

114.4.1 Violations. The person, firm, or corporation violating any of the provisions of this code shall be deemed guilty of a misdemeanor.

CBC [Chapter 9](#) Fire Protection Systems Note.

Note: For additional requirements refer to Fresno Fire Code Section as established by the City of Fresno Fire Department.

CBC [Chapter 10](#)

Section 1024 Luminous Egress Path Markings Note.

Note: For additional requirements refer to Section 10-51024 of the Fresno Fire Code as established by the City of Fresno Fire Department.

CBC Appendix D Fire Districts

D101.1.1 Mapping. For the purpose of this code, the entire city is hereby divided into three fire zones to be classified and known as Fire Zone No. 1, Fire Zone No. 2, and Fire Zone No. 3. The boundaries and limits of each fire zone are shown on a map designated Fire Zone Map No. 166, Fresno, California, dated June 9, 1974, consisting of one sheet, on file in the office of the Building Official, which map, together with any amendments thereto, is hereby adopted and made a part of this article as though fully set forth herein. Whenever in this code reference is made to any fire zone,

such reference shall be construed to mean one of the fire zones designated on that map or any amendments thereto.

(Added Ord. 2010-49, § 3, eff. 1-16-11).

SEC. 11-103. CALIFORNIA RESIDENTIAL CODE.

The California Residential Code, 2010 Edition, which may be referred to in this Code as the CRC, as promulgated by the California Building Standards Commission, which incorporates the adoption of the 2009 edition of the of the International Residential Code as amended with necessary California amendments and the 2009 International Residential Code of the International Code Council, are adopted and incorporated by reference into the Code, except that in addition to [Chapter 1](#) of the CRC, [Chapter 1](#) of the Fresno Building Code shall apply to the administration of the CRC. The CRC, incorporated into the Code shall be referred to as the Fresno Residential Code. For purposes of administering the Fresno Residential Code, all references in [Chapter 1](#) of the Fresno Building Code to the "building code" or "code" shall mean and include the Fresno Residential Code. Where provisions of [Chapter 1](#) of the Fresno Building Code overlap with provisions of [Chapter 1](#) of the Fresno Residential Code, the Fresno Building Code controls. One copy of the CRC is on file and available for use by the public in the Development and Resource Management Department, Building and Safety Services Division.

(Added Ord. 2010-49, § 3, eff. 1-16-11).

SEC. 11-104. CALIFORNIA ELECTRICAL CODE.

The California Electrical Code, 2010 Edition, which may be referred to in the Code as the CEC, as promulgated by the California Building Standards Commission, which incorporates the adoption of the 2008 Edition of the National Electrical Code as amended with necessary California amendments and the 2008 National Electrical Code of the National Fire Protection Association, are hereby adopted by the City of Fresno and incorporated by reference into the Code, except that [Chapter 1](#) of the Fresno Building Code in addition to Article 89 of the California Electrical Code shall apply to the administration of the CEC. The CEC, incorporated into the Code shall be referred to as the Fresno Electrical Code. For purposes of administering the Fresno Electrical Code, all references in [Chapter 1](#) of the Fresno Building Code to the "building code" or "code" shall mean and include the Fresno Electrical Code. Where provisions of [Chapter 1](#) of the Fresno Building Code overlap with provisions of Article 89 of the Fresno Electrical Code, the Fresno Building Code shall control. One copy of the CEC is on file and available for use by the public in the Development and Resource Management Department, Building and Safety Services Division.

(Added Ord. 2010-49, § 3, eff. 1-16-11).

SEC. 11-105. CALIFORNIA MECHANICAL CODE.

The California Mechanical Code, 2010 Edition, which may be referred to in the Code as the CMC, as promulgated by the California Building Standards Commission, which incorporates the adoption of the 2009 edition of the Uniform Mechanical Code as amended with necessary California amendments and the 2009 Uniform Mechanical Code of the International Association of Plumbing and Mechanical Officials, are hereby adopted by the City of Fresno and incorporated by reference into the Code, except that in addition to [Chapter 1](#) of the CMC, [Chapter 1](#) of the Fresno Building Code shall apply to the administration of the CMC. The CMC, incorporated into the Code, along with amendments to the CMC adopted in [Section 11-106](#) shall be referred to as the Fresno Mechanical Code. For purposes of administering the Fresno Mechanical Code, all references in [Chapter 1](#) of the

Fresno Building Code to the "building code" or "code" shall mean and include the Fresno Mechanical Code. Where provisions of Chapter 1 of the Fresno Building Code overlap with provisions of Chapter 1 of the Fresno Mechanical Code, the Fresno Building Code controls. One copy of the CMC is on file and available for use by the public in the Development and Resource Management Department, Building and Safety Services Division.

(Added Ord. 2010-49, § 3, eff. 1-16-11).

SEC. 11-106. AMENDMENTS TO THE CALIFORNIA MECHANICAL CODE.

Pursuant to Health and Safety Code Sections 17958.7 and 18941.5 and section 1.1.8 of the CMC, the following provisions shall constitute local agency amendments to the CMC. The following provisions shall be inserted into the CMC based upon the section numbers indicated. If the section number used is the same as a number used in the CMC, the provision provided below is intended to replace the same numbered provision in the CMC.

CMC Chapter 9

933.0 Wood-burning Appliances

933.1 Definitions. Whenever the following terms are used in Section 933, they shall have the following meanings:

- a) EPA shall mean the United States Environmental Protection Agency.
- b) EPA CERTIFIED WOOD HEATER shall mean any wood heater that meets or exceeds combustion emissions standards set forth in the Code of Federal Regulations, Title 40, Part 60, 26 February 1988.
- c) FIREPLACE shall mean any masonry or factory-built device to burn wood, composition fire logs, or other solid fuel, with or without a gas log or log lighter, which may have a firebox in excess of 20 cubic feet, which may weigh in excess of 800 kilograms, and which is not a pellet-fueled wood stove.
- d) FIREPLACE INSERT shall mean a type of wood heater which is designed to be installed in the opening of a wood-burning fireplace and is connected to the chimney.
- e) NEW CONSTRUCTION shall mean any construction or reconstruction or remodeling of any structure requiring the issuance of a building permit by the City of Fresno.
- f) PELLET-FUELED WOOD STOVE shall mean any commercially manufactured enclosed combustion appliance that is designed to operate on automatically fed pelletized wood fuel and has a usable firebox volume of less than 20 cubic feet.
- g) MANUFACTURED FIREPLACE shall mean any fireplace that is of unitary commercial manufacture and is not synthesized on site of masonry construction components.
- h) STATE OF OREGON DEPARTMENT OF ENVIRONMENTAL QUALITY STANDARDS shall mean the performance and emission standards set forth in Sections 100 through 190 of Chapter 340, Division 21, Oregon Administrative Rules.
- i) WOOD-BURNING APPLIANCE shall mean any device that is designed or used to burn wood, composition wood pellets, or composition fire logs for aesthetic, space heating, cooking, and/or water heating purposes within a structure; to include fireplaces, pellet-fueled wood stoves, and wood heaters.
- j) WOOD HEATER shall mean a commercially-manufactured, enclosed wood-burning appliance that meets all the following criteria:
 - 1) A usable firebox volume of less than 20 cubic feet; and
 - 2) A maximum weight less than 800 kilograms, exclusive of chimney and other

- accessory devices that are not an integral part of the appliance; and
- 3) A combustion air-to-fuel consumption ratio which averages less than 35-to-1, as determined by EPA certification test procedures set forth in code of Federal Regulations, Title 40, Part 60, 26 February 1988; and
 - 4) A minimum burn rate with less than five kilograms per hour fuel consumption, as determined by EPA certification test procedures set forth the Code of Federal Regulations, Title 40, Part 60, 26 February 1988.

933.1.1 All Wood-burning Appliances Prohibited in New Construction. Notwithstanding any other provision in the Fresno Municipal Code, no wood burning appliance, as defined herein, shall be installed in any new construction. This section shall not apply to any residential structure or dwelling unit having a lawfully installed wood burning appliance in place as of the effective date of this ordinance.

933.2 Installation of Wood-burning Appliances not permitted in Higher Density Residential Developments. Permits shall not be issued for wood-burning appliances to be installed in dwelling units of residential projects that have densities of more than 10.37 dwelling units per gross acre. However, one wood-burning appliance may be constructed or installed in each common-use recreation facility in these developments.

933.3 Wood-Burning Appliances Require Air Pollution Emissions Certification. Permits shall be issued only for replacement of existing wood burning appliances lawfully installed prior to the effective date of this ordinance and be issued only for those wood burning appliances certified by the U.S. Environmental Protection Agency (EPA) as meeting the EPA Phase I or Phase II emissions standards; or meeting equivalent State of Oregon Department of Environmental Quality Standards. Effective March 1, 1991, all wood burning appliances to be installed must be EPA-certified as at least meeting Phase II emissions standards. A permit shall only be issued for installation of a wood burning appliance when adequate EPA-approved documentation is provided to demonstrate that the wood burning appliance or fireplace stove model being installed has the appropriate emissions certification. EXCEPTION: Those pellet-fueled wood stoves not affected by EPA's testing program under the Code of Federal Regulations Title 40, Part 60, Sub-installation by substituting independent, approved, nationally-recognized testing laboratory documentation showing that they emit less than 4.1 grams per hour of particulate matter.

933.4. Coal-burning Appliances Prohibited. No permit shall be issued to install any fireplace or domestic heating or cooking appliance that is designed and intended to use coal as combustion fuel.

933.5. Installation of Wood-burning Appliances Without Permits. Wood-burning appliances found to be installed on or after November 30, 1990, without required permit(s) shall be cause for an inspection/investigation fee to be charged to the property owner, pursuant to the Master Fee Resolution, and the issuance of a notice to abate (required permits secured, all work completed, and permit final inspection done) within 60 days of owner's receipt of the notice, 75 percent of the inspection/investigation fee shall be rebated.

If permit(s) were secured to abate the illegal installation, prior to discovery of the illegal installation by the City, no notice shall be issued nor inspection/investigation fee incurred unless the permit(s) to abate the nuisance are not finalized within 90 days.

(Added Ord. 2010-49, § 3, eff. 1-16-11).

SEC. 11-107. CALIFORNIA PLUMBING CODE.

The California Plumbing Code, 2010 Edition, which may be referred to in the Code as the CPC,

as promulgated by the California Building Standards Commission, which incorporates the adoption of the 2009 edition of the Uniform Plumbing Code as amended with necessary California amendments and the 2009 Uniform Plumbing Code of the International Association of Plumbing and Mechanical Officials, are hereby adopted by the City of Fresno and incorporated by reference into the Code, except that in addition to Chapter 1 of the CPC, Chapter 1 of the Fresno Building Code shall apply to the administration of the CPC. The CPC, incorporated into the Code shall be referred to as the Fresno Plumbing Code. For purposes of administering the Fresno Plumbing Code, all references in Chapter 1 of the Fresno Building Code to the "building code" or "code" shall mean and include the Fresno Plumbing Code. Where provisions of Chapter 1 of the Fresno Building Code overlap with provisions of Chapter 1 of the Fresno Plumbing Code, the Fresno Building Code controls. One copy of the CPC is on file and available for use by the public in the Development and Resource Management Department, Building and Safety Services Division.

(Added Ord. 2010-49, § 3, eff. 1-16-11).

SEC. 11-108. CALIFORNIA ENERGY CODE.

The California Energy Code, 2010 Edition as promulgated by the California Building Standards Commission is hereby adopted by the City of Fresno and incorporated into the Code and shall be referred to as the Fresno Energy Code. One copy of the California Energy Code is on file and available for use by the public in the Development and Resource Management Department, Building and Safety Services Division.

(Added Ord. 2010-49, § 3, eff. 1-16-11).

SEC. 11-109. CALIFORNIA GREEN BUILDING STANDARDS.

The California Green Building Standards Code, 2010 Edition as promulgated by the California Building Standards Commission is hereby adopted by the City of Fresno and incorporated into the Code and shall be referred to as the Fresno CALGreen Code. One copy of the California Green Building Standards Code is on file and available for use by the public in the Development and Resource Management Department, Building and Safety Services Division.

(Added Ord. 2010-49, § 3, eff. 1-16-11).

SEC. 11-110. UNIVERSAL DESIGN STANDARD.

- (a) Purpose and Intent. The purpose of this section is to provide affordable, accessible housing by incorporating universal design features in any City or Agency funded Affordable Housing Projects. Universal design recognizes the changing diversity of needs important to all people regardless of various ages, abilities or conditions experienced during an entire lifetime. In order to increase the availability of affordable, accessible housing, the City and Agency require that all City and Agency funded Affordable Housing Projects include the standards of universal design contained in this section.
- (b) Findings.
 - (1) The City finds that the Building Official has determined that the provisions of this article related to the five features of universal design are consistent with the California Building Code and the provisions of the Fresno Municipal Code adopting the California Building Code.
 - (2) This ordinance shall not apply to any residential dwelling unit subject to and in compliance with Chapter 11A or 1 IB of the California Building Code.

- (3) The City finds that the regulations imposed by this section are reasonably necessary in this jurisdiction because:
- (i) According to the 2000 Census data, 85,048 or 20% of City residents are classified as disabled. The 2000 Census also indicates 39,547 or 9% of City's residents are 65 years and older. These statistics do not take into consideration the returning veteran population or people who become temporarily disabled. These statistics also do not take into account people who become temporarily disabled due to injuries or illness.
 - (ii) According to the State of California Architect, universal design is a broader, more comprehensive "design for all" approach to the development of products, architecture and environments around human diversity. Universal design recognizes the changing diversity of needs important to all people regardless of their age, ability or conditions experienced during an entire lifetime. Anyone can benefit from a barrier-free design, user friendly architecture and a comfortable environment.
- (c) Definitions. For the purpose of this section, the following terms will have the following definitions:
- (1) "Accessible:" Standards for features, fixtures, designs or other improvements which are equal to or exceed the minimum requirements of Chapter 11A or 1 IB of the California Building Code.
 - (2) "Affordable:" Any residential dwelling unit that has an Affordable Housing Cost or Affordable Rent.
 - (3) "Affordable Housing Cost:" Shall have the meaning ascribed to that term in Section 50052.5 of the California Health and Safety Code, or any successor section thereto.
 - (4) "Affordable Housing Project:" An affordable residential dwelling development activity receiving City or Agency funds, including funding made available for pre-development, development, construction and permanent financing and not including rehabilitation, funding for social services, and direct mortgage assistance to homebuyers of existing units.
 - (5) "Affordable Rent:" Shall have the meaning ascribed to that term in Section 50053(a) of the California Health and Safety Code, or any successor section thereto.
 - (6) "Agency:" The City of Fresno Redevelopment Agency.
 - (7) "ANSI Standard:" "American National Standard for Buildings and Facilities Providing Accessibility and Usability for Physically Handicapped People," also known as "ANSI A17.1," published by the American Standards Institute, Inc.
 - (8) "Bathroom:" A room containing a toilet (water closet), lavatory (sink), and either a shower, bathtub, combination bathtub and shower, or both a shower and bathtub. It includes a compartmental bathroom in which the fixtures are distributed among interconnected rooms.
 - (9) "Building Department:" As defined by the California Building Code.
 - (10) "Building Official:" As defined by the California Building Code.
 - (11) "CBC, Chapter 11 A:" Chapter 11A of the California Building Code (located in Part 2, Title 24, California Code of Regulations) or its successor provisions.
 - (12) "CBC, Chapter 11 B:" Chapter 11 B of the California Building Code (located in Part 2, Title 24, California Code of Regulations).
 - (13) "City:" The City of Fresno.
 - (14) "City Agency Funded or Financial Assistance:" Any City or Agency financial assistance, provided to an affordable housing project that includes redevelopment agency funds,

affordable housing special reserve funds, HOME funds or Community Development Block Grant Funds.

- (15) "Condominium:" As defined by California Civil Code Section 951 (f) a development where undivided interest in common in a portion of real property is coupled with a separate interest in space called a unit, the boundaries of which are described on a recorded, final map or parcel map. There are within the boundaries may be filled with air, earth, or water, or any combination thereof, and need not be physically attached to any land except by easements for access and, if necessary, support.
- (16) "Dwelling Units:" As defined by the California Building Code.
- (17) "New Construction:" All new, residential construction for which a building permit is required per local ordinance. New construction does not include additions, alteration, or remodels to existing residential buildings.
- (18) "Owner-occupied:" Any dwelling unit not intended at the time of application for the building permit to be occupied as a rental dwelling unit.
- (19) "Powder Room:" A room containing a toilet (water closet) and lavatory (sink), but no bathtub or shower. It includes a compartmental powder room in which fixtures are distributed among interconnected rooms.
- (20) "Primary Entry:" The principal entrance through which most people enter a building or dwelling unit as designated by the Building Official.
- (21) "Rental:" Any dwelling unit not intended at the time of the application for a building permit to be occupied by the owner.
- (22) "Residential Dwelling:" Shall mean the same as the term Residence as defined in the Fresno Municipal Code.
- (23) "Universal Design:" Universal Design is a broader, more comprehensive "design for all" approach to the development of products, architecture, and environments around human diversity. Universal Design is a broad comprehensive house design that makes a home safe and comfortable for everyone, young or old, whether they have a disability or not. The basic features of Universal Design are set forth in subsection (e), of this section.
- (24) "Visitability:" Enhancement of the ability of a residential dwelling unit to meet the basic needs of all residents and guests to enter and use critical portions the home, to the greatest extent possible, through specific design choices decisions.

(d) Scope and Application.

- (1) Unit Coverage. All new construction of affordable residential dwelling units that receive any City/Agency Funding as defined above shall incorporate the live basic features of Universal Design unless exempted within this section.
- (2) Unit Types. New construction of all affordable residential dwelling units that are part of a tract, duplex or triplex, condominium, townhouse or other residential dwellings that receive City or Agency funding shall be subject to this section unless exempted within this section.
- (3) An exemption may be granted in the event of either of the following:
 - (i) The applicant for the building permit can demonstrate undue hardship due to topographical conditions, reconstruction and substantial rehabilitation due to natural disasters.
 - (ii) Multi-dwelling second story and above units where elevator does not exist.
- (4) The Building Official of the City of Fresno, may consider alternate means and methods as provided under the Building Codes of the State of California in order to provide conformance where needed on a case by case basis.

(e) Standards.

- (1) An affordable residential dwelling unit shall have one entry that shall comply with each of the following:
 - (i) Must be a "no step" entry going into the residence. For purposes of this subsection, "no step" shall mean the floor or landing shall be no more than $\frac{1}{2}$ inch lower than the top of the threshold of the door way.
 - (ii) The door going into the no step entry must be thirty-six (36) inches.
- (2) The interior routes of an affordable residential dwelling unit shall comply with each of the following:
 - (i) At least one accessible route through the hallways and passageways shall be provided from the accessible entrance of the dwelling unit to the primary floor bathroom, bedroom and kitchen;
 - (ii) All doorways shall be at least thirty-two inches wide;
 - (iii) All hallways shall be at least forty-two inches wide.
- (3) An affordable residential dwelling unit shall contain a kitchen with six square feet of kitchen counter space.
- (4) An affordable residential dwelling unit with a ground floor of 750 square feet or more, excluding the garage floor space, shall contain ground floor facilities that comply with each of the following:
 - (i) One downstairs "flex room" which can be used as a bedroom.
 - (ii) At least one downstairs bathroom that consists of a toilet, lavatory, and bathtub or shower, or both.
 - (iii) The downstairs bathroom in the preceding paragraph shall have an unobstructed clear space measuring at least forty-eight inches by sixty inches inside the bathroom and outside the swing of the door.
 - (iv) Grab bar reinforcements consistent with CBC Chapter 11A for the toilet, and any shower or bath.

(Added Ord. 2010-49, § 3, eff. 1-16-11).

FOOTNOTE(S):

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Editor's note— Ord. 2010-49, §§ 2 and 3, effective January 16, 2011, amended the Code by repealing former Art. 1, §§ 11-101—11-109, and adding a new Art. 1. Former Art. 1 pertained to building, mechanical, plumbing, electrical and energy regulations, and derived from Ord. 2007-92, effective January 17, 2008; and Ord. 2008-53, adopted October 9, 2008. ([Back](#))

MEMORANDUM

Agenda Items: # 18

To: Planning Commission
From: Mark Donaldson, Executive Director
Date: February 7, 2008
RE: Visitability Study – 2-A-08-MP

City Council Request

In a December 19, 2006, resolution, City Council requested MPC *consider modifications to the zoning code to better assure availability of housing designed to meet the needs of physically challenged persons by conducting a study to determine the potential and feasibility of making such modifications.* The commonly used term for this is accessible housing.

Background

City Council asked MPC to consider amendments to the zoning code to assure more housing that is more accessible to more people in Knoxville. The Knoxville zoning code, without a major change in emphasis such as creating districts exclusively for senior housing, is not an appropriate place to assure greater accessibility in the housing inventory.

The theme of *Visitability* is a version of the greater list of accessibility features required by the Fair Housing Act in all residences within structures having 4 or more dwelling units. The focus of *Visitability* is on a limited number of necessary features to achieve the desired design outcome:

- An accessible route into and through the dwelling to the bath made up of
 - Hallway and doors wide enough to provide access to the bath for the mobility impaired; and
 - A no-step route and entrance to the dwelling;
- A bath or half-bath on the primary living floor of the dwelling.

Designing for *Visitability* is also convenient for anyone using strollers or carriages, carrying groceries, or moving furniture and appliances in and out of a home. The cost of completing these features during original construction is considerably less costly than retrofitting.

Demographic changes in the local population should create a demand for housing with *Visitability* features. Those aged 65 and over are the fastest growing segment of the population and the percentage of people with a disability is growing rapidly. But growth

in these segments of the population has not resulted in an increase in demand for housing with *Visitability* features.

A purely regulatory approach to *Visitability* is of great concern to the building industry. A regulation that requires the provision of *Visitability* in all new housing is done by only a handful of communities across the country. A universally applied approach does not reflect the unique characteristics that may apply to each developed lot in the city. Until there is a demonstrated demand for *Visitability* features, builders are reluctant to invest in speculative housing with these features.

A proper role for the City may be to demonstrate the desirability of these *Visitability* features in order to grow the demand for them. Once there is a demand, the housing suppliers will meet that demand. The following approach is recommended for Knoxville:

1. **Require** Visitability features in housing not subject to the Fair Housing Act developed through the City's Community Development programs when direct assistance is provided through a contractual agreement.
2. **Include** Visitability features when completing development agreements that provide indirect public assistance resulting in new housing not subject to the federal Fair Housing Act.
3. **Create** a volunteer certification and marketing program using as a model Georgia's *EasyLiving Home* program with cooperation between the Knoxville Home Builders Association and the Knoxville Council on Disability Issues.
4. **Create** informative literature for distribution to consumers and builders.

Staff Recommendation

Staff recommends approval of the study. No amendments to the zoning code or subdivision regulations are recommended in the study. The goal of achieving more housing that is more accessible for more people is best moved forward through a comprehensive, multi-faceted approach to raise awareness about this emerging trend in housing development.

VISITABILITY Study

A Strategy to Move Knoxville

Toward

More Housing that is More Accessible for More People

February, 2008

Summary

City Council asked MPC to consider amendments to the zoning code to assure more housing that is more accessible to more people in Knoxville. The Knoxville zoning code, without a major change in emphasis such as creating districts exclusively for senior housing, is not an appropriate place to assure greater accessibility in the housing inventory.

The theme of *Visitability* is a version of the greater list of accessibility features required by the Fair Housing Act in all residences within structures having 4 or more dwelling units. The focus of *Visitability* is on a limited number of necessary features to achieve the desired design outcome:

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A purely regulatory approach to *Visitability* is of great concern to the building industry. A regulation that requires the provision of *Visitability* in all new housing is done by only a handful of communities across the country. A universally applied approach does not reflect the unique characteristics that may apply to each developed lot in the city. Until there is a demonstrated demand for *Visitability* features, builders are reluctant to invest in speculative housing with these features.

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4. **Create** informative literature for distribution to consumers and builders.

Council Request and Intent

In a December 19, 2006, resolution requested by Councilman Rob Frost, City Council requested MPC *consider modifications to the zoning code to better assure availability of housing designed to meet the needs of physically challenged persons by conducting a study to determine the potential and feasibility of making such modifications.* The commonly used term for this is accessible housing.

Zoning and Accessibility

The zoning code generally regulates the use of land and dimensional requirements of buildings constructed on the land. It generally does not dictate how a building is built (other than dimensions and where a building sits on a parcel) or what goes on inside a building (other than use).

A review of zoning ordinances found only a single zoning ordinance (Howard County in Maryland) that requires provision of some accessibility features when developing residences. The Howard County ordinance¹ has several residential zone districts that are established primarily for housing for seniors - where age restricted adult housing was called out as a permitted use. In these senior housing zoning districts, developers are required to incorporate universal design features from guidelines which identify required, recommended and optional design features.

However, there are many examples of communities, counties and even states that have adopted requirements that provide a level of accessibility in some or all dwellings constructed within the jurisdiction. These are found in building codes, general design codes, and policy statements adopted by these governments, but not within their zoning codes. The Naperville, IL; Pima County, AZ; Tucson, AZ; and Arvada, CO, provisions are located within the building codes for each respective community. Bolingbrook, IL, has a freestanding *Visitability* Ordinance. See Appendix A for listing of *Visitability* initiatives.

The MPC provides recommendations to the city on its zoning regulations and adopts the joint city and county subdivision regulations, but has no authority regarding anything else in the city's Code of Ordinances or policy documents. Upon determining that the zoning code was not the best method to encourage or ensure accessible housing, MPC requested that the city permitting and enforcement office participate in the study to broaden the scope of potential tools that may be in play. With their assistance a working group was assembled to look into a potential strategy to address the concern raised by City Council and requested of MPC. This working group included city permitting and codes enforcement officials, members of the Council on Disability Issues and several local builders who work within the city. This group began meeting in March, 2007 and has met often since that time. A public meeting was held in October, 2007. See roster of participants at Appendix B.

Visitability Defined

A growing trend in the area of accessible housing is a theme called *VISITABILITY*. There are other terms used to describe the same general theme of creating more housing that is more accessible to more people, such as accessible housing, universal design, or inclusive design. *Visitability* is a movement started by Eleanor Smith of *Concrete Change* (an Atlanta, GA based disability advocacy organization) around 1986 to change home construction practices so that virtually all new homes – not merely those custom built for occupants who currently have disabilities – offer a few specific features that make the home easier for people who develop mobility impairments to live in and visit.

Visitability is perhaps an underestimation of the intent. The intent is not just to create more housing that is more accessible for more people TO VISIT, but rather it represents a vision of having more housing that is more accessible for more people TO LIVE IN. Eleanor Smith of Concrete Change, says “Visiting friends and extended family is so much a part of a full life, and basic home access goes beyond visiting. It’s also about the home of a person who develops a disability. Without basic access in place, architecture forces severe choices – the disruption and grief of moving out of one’s community; expensive renovation - if the home is even amenable to renovation; or existing as a virtual prisoner in an unsafe, unhealthy house.”²

The focus of *Visitability* is on necessary features to achieve the desired design outcome:

- An accessible route into and through the dwelling to the bath made up of:
 - A no-step route and entrance to the dwelling;
 - Hallway and doors wide enough to provide access to the bath for the mobility impaired; and
- A bath or half-bath on the primary living floor of the dwelling;

Designing for *Visitability* is also convenient for anyone using strollers or carriages, carrying groceries, or moving furniture and appliances in and out of a home.

Visitability in Perspective to Accessibility & Universal Design

Visitable housing is different than housing that meets the accessibility requirements of the Fair Housing Act. The Fair Housing Act of 1988³ requires some fully accessible dwellings within all structures that have 4 or more dwelling units: in buildings that have an elevator, all dwellings must meet accessibility standards, while in buildings that do not have an elevator, only the ground floor dwellings must provide accessibility.

Table 1 compares the features of *Visitability* with the requirements of Accessibility.

Table 1 Accessibility Features Compared to Visitability Features	
Accessibility Features	Visitability Features
An accessible building entrance on an accessible route	An accessible building entrance to the primary floor on an accessible route
Accessible common and public use areas.	NA
All doors that allow passage into and within all premises must be wide enough to allow passage by persons using wheelchairs.	A door into the primary floor bathroom that is wide enough to allow passage by a person using a wheelchair.
There must be an accessible route into and through each covered unit.	There must be an accessible route to the primary floor bathroom.
Light switches, electrical outlets, thermostats and other environmental controls must be in accessible locations.	NA
Reinforcements in bathroom walls must be installed, so that grab bars can be added when needed.	NA
Kitchens and bathrooms must be usable - that is, designed and constructed so an individual in a wheelchair can maneuver in the space provided.	NA

Universal Design⁴ is another term used to describe efforts to build housing that meets the needs of the greatest possible portion of a community's population. It incorporates products, design and building characteristics into residences in order to:

- Make the residence usable by the greatest number of people;
- Respond to the changing needs of the resident; and
- Improve marketability of the residence.

Universal design requirements can be characterized by the following features:

1. Hallways with a net clear opening of at least 42 inches;
2. Interior doorways with a minimum clear opening of at least 32 inches;
3. A minimum of one full bath universally designed on the "at grade" level of the residence;
4. A no-step entry door with a 5' by 5' exterior landing;
5. ADA (lever style) faucets throughout;

6. Accessible light switches, fan switches, thermostats and electric outlets;
7. An accessible route from vehicular parking area to the residence entry;
8. A minimum of one bedroom on an accessible route within the residence.

The focus here is on the more narrowly defined visitable housing because the design features are more limited and, as a result, should be easier to achieve. Eleanor Smith of Concrete Change advises that "If the strategy chosen involves enforceable legislation—which is the means by which the great majority of visitable homes have been created to date-- the list of prioritized features must be short. Otherwise, passing a *Visitability* law is currently impossible. In voluntary efforts, more features can be included."⁵

The Growing Demand and Need for Visitable Housing

It appears that there should be a growing market demand for visitable housing based on the changing demographics of the United States and Knoxville. That portion of the local population growing most rapidly is the segment over 65 years of age, which is expected to double by 2030. This is an age at which mobility to and within homes becomes more of an issue. Nationally, the percentage of persons over 65 by the year 2030 is expected to reach 20% to 25%, up from 12% in the 2000 census.⁶

In addition, there is a rapidly growing local segment of population that is disabled, either permanently or temporarily. There was more than a 400% increase in Knox County from 1990 to 2000 in population age 21-64 with a disability (9,938 in 1990 compared to 43,187 in 2000).

There is also a growing trend among seniors to live in their homes as long as possible. "Aging in Place" is a phrase that describes the desire of 90% of people aged over 65, according to a survey by the American Association of Retired Persons.⁷

These two demographic forces should represent an emerging market for homes that are visitable. However, the market place has not yet arrived at the doorsteps of area home builders. A builder who has worked with the *Visitability* advocacy group Concrete Change states: "zero demand for accessible units has yet to appear in most homebuilders' sales offices. For all of the people who may appear in wheelchairs at public hearings in support of such measures, hardly any are actually showing up on the sales floor."

On the supply side, housing built in Knoxville in recent years has been predominantly in multi-dwelling structures and therefore subject to the Fair Housing Act. Since 2001, 60% of the new housing units in Knoxville were in apartment or condominium multi-dwelling structures (3,631 of the 6,060 permitted dwellings).⁸ Most of these units would have all of the accessibility features required by the Fair Housing Act.

Concerns about Requiring *Visitability*

The following table⁹ from www.concretechange.org summarizes several concerns that are expressed by those who do not want to mandate *Visitability* requirements (identified by Concrete Change as myths) and responses to those concerns (identified by Concrete Change as facts).

MYTHS	FACTS
The “percentage mentality” illogically suggests that the percentage of homes with access should roughly equal the percentage of population who currently have mobility impairments.	Visiting other people’s homes is as important to people with mobility impairments as it is to others. And, finding the rare accessible house or apartment to rent or buy at the time it’s needed is often impossible when there are few choices. Lastly, it’s not possible to predict which formerly able-bodied person will suddenly need access in their own home.
All the dozens of access features detailed in typical home access checklists are equally important—from the mirror placement to the type of cabinets.	The three access features people with disabilities need most in order to visit friends and use their own home are getting in and out, fitting through interior doors, and using the bathroom. All other features, needed as they might be, pale beside these three.
Access looks unattractive.	Well-planned access is integrated into the home/landscape design and is unnoticeable, or an attractive asset.
Access is expensive.	In new construction, \$0 to \$25 per home built on a concrete slab and \$300-600 per home built with a basement, are reasonable averages for planned-in-advance, basic access. (In renovation, depending on the situation, adding basic access is usually expensive.)
A zero-step entrance is feasible only on a flat lot.	When siting a structure and grading the lot with access in mind---using the lay of the land to advantage---a sloping lot is often even easier to work with than a flat lot. (See photo gallery at www.concretechange.org .)
People with disabilities are the only folks who benefit from home access.	At resale, a home with basic access is available to a wider market, especially in an aging population like the U.S. And non-disabled residents like wider doors and step free entrances to ease bringing in baby strollers and moving heavy furniture.

Many concerns expressed by the building community are warranted.

- Obstacles to the no-step entry such as slope occur on a site-by-site basis, and a blanket regulation that applies to all new developments cannot anticipate every such problem.
- Virtually zero demand for accessible units has yet to appear in most homebuilders’ sales offices. For all of the people who may appear at public hearings in support of such measures, hardly any are actually showing up on the sales floor.

- People who do not need these accommodations at present are not expressing a desire to incorporate them in their new home.
- Implementing regulations that mandate hard numbers or fixed percentages of units that must have accessibility enhancements may not work. Such an approach requires the builder to construct a house with generally unwanted features.

The Cost of Possible Improvements

The no-step entrance is the hardest feature of *Visitability* to deliver for homebuilders who work in a competitive, cost-conscious environment. An accessible route within the home and a half-bath on the primary living floor are relatively easy to accommodate through design and can be achieved at relatively low cost:

- Providing wide enough hallways to accommodate a wheelchair is required by the local building code.
- Providing wide enough doors, especially to the bath on the primary living floor, can be accommodated by moving walls during design, essentially stealing floor area from one room to provide in another. Adding square footage to the home is generally not required.
- An interior door unit that provides a 36-inch wide door can be purchased for only a small cost greater than a door unit that provides a 32-, 30- or 28-inch door, which are commonly used as interior door widths.

The no-step entrance in new construction can be achieved at modest cost, depending on the type of foundation. Two types of foundation construction are typical: either slab-on-grade or crawl space or basement.

- On homes which are built on a concrete slab, the zero-step entrance usually does not add any cost. In fact, the cost for zero steps on slab construction may be lower than the cost of steps, since compacted earth can reduce the amount of concrete needed.
- On the homes not built on a slab--those which have a basement or crawl space--there are several low-cost options.
 - Many new homes have attached garages or carports. Often the zero-step entrance can easily be constructed from the garage by planning the house floor and garage floor on the same level -- or nearly so -- rather than having the typical one or two steps up into the house. In those cases, either no ramp or a very short concrete ramp is all that is needed.
 - On homes with basements or crawl spaces, low-cost front, back or side entrances that do not require entering through the garage are often easy and inexpensive. Berming can allow a sidewalk or short bridge leading directly to the porch. For example, the "notched foundation" method used for thousands of homes with basements in Bolingbrook, IL¹⁰ can be employed for a lower floor, at a cost estimated at approximately \$250.
 - Another option is a short ramp or bridge made of attractive materials with a deck-like appearance. In calculating cost, the cost of the omitted steps should be deducted from the cost of a ramp.

Since most lots have to be graded for development, the key to keeping costs down is to position the house on the lot and grade the lot with the no-step entrance in mind.

A local, nonprofit builder has recently provided all *Visitability* features in their homes for less than \$1,000, including many sites with severe slope issues.

These photos demonstrate the no-step entry in a variety of lot and housing configurations.

Detached House



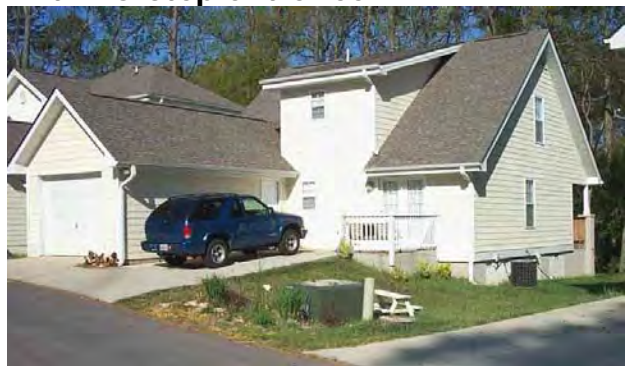
Attached Houses



**A House on a
Sloped Lot from Front
With steps to entrance**



**Same House
Sloped Lot from Rear, with alley
With no-step entrance**



The Upfront Cost Versus the Cost of Retrofit

The following numbers for new construction are presented by Concrete Change¹¹ and have been verified by Ed Phillips, the Executive Director of the Home Builders Association of Georgia.¹²

- Wide Passage Doors
 - \$50 per home to oversize doors in new construction
 - Up to \$700 per door as retrofit
- Bath on the Primary Floor
 - No cost if pre-designed
 - Adding a bath can cost more than \$1,000
- No-Step Entrance
 - Less than \$100 for new slab-on-grad construction
 - \$300 to \$600 for new construction with crawl space or basement
 - Up to \$3,300 as retrofit

Visitable Housing Trends

More and more cities, counties and states are addressing the issues of *Visitability*, accessibility and universal design, yet very few have taken the approach that *Visitability* is mandated for all new construction.

- The federal government mandates through the Fair Housing Act that all dwelling units in structures with 4 or more units provides accessibility for some units – all those with ground floor access and all units if an elevator is provided.
- Pima County, Arizona, mandates *Visitability* in all new construction outside municipal boundaries. Pima County contains the city of Tucson.
- A few other local governments require some features of *Visitability* but provide exceptions.

The most common trend is to require **Visitability** features in homes constructed with direct government assistance, such as Community Development Block Grant and HOME, or to create voluntary programs that encourage builders to incorporate *Visitability* features in exchange for certification from an accessibility advocacy group.

Appendix A features a summary of programs and approaches currently used by federal, state, county and local government to mandate or encourage *Visitability* features in the construction of new residences. Five approaches are summarized:

- 1) Builder mandates Tied to Use of Public Funds
- 2) Builder mandates, beyond Public Subsidies
- 3) Builder Incentives
- 4) Consumer Incentives
- 5) Consumer Awareness / Promotion

The Easy Living Home Concept¹³

EasyLiving Home, based in Georgia, is an example of a program that blends builder incentives and consumer awareness and promotion. *EasyLiving Home* is the nation's first voluntary certification program that specifies criteria in everyday construction to add convenience in new home construction and to welcome all friends, family and visitors regardless of age, size or physical ability.

The *EasyLiving Home* program has been developed by a coalition of public and private organizations to encourage the voluntary inclusion of key features which make a home cost effective, accessible and convenient for everyone without sacrificing style or adding substantial construction costs. *EasyLiving Home* certification enhances both the initial and resale value of a home, and can be achieved for practically any home regardless of price, building site or architecture.

The *EasyLiving Home* program is similar in concept to the Leadership in Energy and Environmental Design (LEED) certification process that will result in more energy efficient and environmentally friendly development. It will raise the level of consciousness about *Visitability* and accessibility and reward those who volunteer to participate in the program by helping them sell their product through the certification process.

**Endorsement from Millard Fuller, President,
Habitat for Humanity International**

"The EasyLiving Home concept gives all of us an opportunity to take housing designs to the next level at a very minimal cost. At the same time, it provides a more livable and more visitable home for everyone. I would encourage all of those who work to provide housing for the citizens of the world to incorporate these life-enhancing design features in their homes."

http://www.easylivinghome.org/elh_testimonials.htm

No Uniform Approach

As can be seen in Appendix A there is no uniform approach to encouraging or even requiring *Visitability*.

Two impediments to providing accessible housing are looming in today's housing industry:

- The demand for *Visitability* features in new houses and duplexes is not reflected in the marketplace. Those who desire accessibility are not knocking down the doors of builders with requests for new housing.

- Not all sites are favorable to the no-step entrance and builders are not convinced the cost of providing *Visitability* features is worth their investment in all cases.

To overcome these impediments and create an opportunity for accessible housing to flourish and multiply, Knoxville should create a *Visitability* Initiative encompassing a number of programs that will help create a demand for *Visitability* features and convince enough builders that providing such features in new houses and duplexes expands the number of potential buyers for their product.

A multi-faceted approach to enhancing *Visitability* in the community can provide a balanced program without placing a burden on any single segment of the housing supply chain that would result from a regulatory approach. Such a balanced approach could include:

- Contractual *Visitability* benchmarks tied to any housing receiving direct public assistance such as the City's housing programs utilizing CDBG, HOME or other state or federal housing assistance.
- Incentives to achieve visitability benchmarks for projects that receive such indirect public assistance, such as tax increment financing, fee waivers, or other local government assistance.
- Voluntary compliance with visitability benchmarks in cooperation with organized certification and marketing assistance such as Georgia's Easy Living Program.

Recommendation

In response to City Council's request the following is recommended:

- **Do not** amend the zoning code to require visitability features in new housing; rather:
- **Require** visitability features in housing not subject to the Fair Housing Act developed through the City's Community Development programs when direct assistance is provided through a contractual agreement.
- **Include** visitability features when completing development agreements that provide indirect public assistance resulting in new housing not subject to the federal Fair Housing Act.
- **Create** a volunteer certification and marketing program using as a model Georgia's EasyLiving Home program with cooperation between the Knoxville Home Builders Association and the Knoxville Council on Disability Issues.
- **Create** informative literature that can be placed in the hands of consumers and builders at a variety of points of contact.

A New Visitable Home in Knoxville
1410 Pickett Avenue



Appendix A Visitability Initiatives.

From *Visitability Trends, Approaches and Outcomes*, by Katie Spegal, MSG, and Phoebe Liebig, Ph.D.

Builder Mandates, Tied to Public Assistance

1. Atlanta, GA. 1992. Requires visitability for new houses, duplexes and triplexes receiving city assistance.
2. Urbana, IL. 2000. Requires visitability for new houses and duplexes receiving city assistance.
3. Long Beach, CA, 2002. Requires visitability for new houses and duplexes receiving city assistance.
4. Southampton, NY. 2002. Requires visitability and accessibility for new houses, multi-dwelling structures and senior housing receiving town assistance.
5. Onondaga County, NY. 2002. Requires visitability for new houses and duplexes receiving county assistance.
6. San Antonio, TX, 2002. Requires visitability for new houses, duplexes and triplexes receiving city, state or federal assistance.
7. Iowa City, IA. 2002. Requires visitability for structures constructed with state or federal assistance.
8. Austin, TX. 1998. Requires visitability for new houses, duplexes and triplexes constructed with any public assistance.
9. Toledo, OH. 2005. Requires visitability for new houses, duplexes and triplexes constructed with any public assistance.
10. State of Texas. 1999. Requires visitability for new affordable houses constructed with state or federal assistance.
11. State of Georgia. 2000. Requires visitability for new affordable houses constructed with state or federal assistance.
12. State of Kansas. 2002. Requires visitability for new affordable houses, duplexes, and triplexes constructed with state or federal assistance.
13. State of Minnesota. 2001. Requires visitability for new housing constructed with assistance from the Minnesota Housing Finance Agency.

Builder Mandates, Beyond Public Subsidies

1. Bolingbrook, IL. 2004. Requires visitability for all new houses.
2. Pima County, AZ. 2002. Requires visitability for all new houses.
3. Tucson, AZ, 2007. Requires visitability for all new houses.
4. Arvada, CO. 2005. Requires visitability for 15% of new houses, except those in subdivisions with less than 7 lots and "custom" built houses.
5. Naperville, IL. 2002. Requires some accessibility features for all new houses. Does not require no-step entry.
6. State of Vermont. 2000. Requires five accessibility features (not including a zero-step entrance) in all "spec" homes (those built by a developer prior to obtaining a buyer).
7. Irvine, CA. 1999. Requires a list of 33 optional Universal Design features be provided consumers, though none are required to be included.

Appendix A

Building Incentives

1. The Accessible Housing Demonstration Grant Program in Illinois. 1999. \$1,000,000. \$5,000 to builders who incorporate four features in "spec" homes":
 - a. No-step entrance with 36 inch door;
 - b. 32 inch clearance on all interior doors;
 - c. accessible environmental controls;
 - d. reinforced bathroom walls.
2. Southampton, NY. Reduced fees (\$300 credit) or building permit waivers (fast track) for those who include "Basic Access features":
 - a. One-step entrance;
 - b. 32 inch clearance doors and hallways on first floor;
 - c. half-bath on first floor that is wheelchair maneuverable.
3. Freehold Borough, NJ. 1997. Waived fees for addition of accessible features.

Consumer Incentives

1. State of Virginia. 1999. Tax credit incentive of up to \$500 to add accessibility features.
2. State of Georgia. 1999. Tax incentive program available to disabled for purchase of new home with accessible features or for retrofitting an existing home.
3. Escanaba, MI. 2003. \$150 rebate to property owners who incorporate accessible features.

Consumer Awareness

1. San Mateo, CA. 1998. Brochures titled "*Residential Visitability*" and "*Universal Design Recommendations*" are distributed to developers, builders, consumers, city officials, and the general public. Housing task force was created.
2. Sacramento, CA. 2003. City approved *Universal Access Strategy* plan leading toward model building codes for universally designed housing by 2005.
3. Syracuse, NY, 2003. *Resolution* supporting and recommending that builders include visitable features in new houses and duplexes. Information is distributed to builders when applying for a permit.
4. Visalia, CA. 2001. The *Visitable Home Program* designates homes with a "Certified Visitable" logo. Certified builders may use the trademark in advertising. Dennis Lehman, Chief Building Official, who had his home built under the guidelines, reported an extra cost of \$84 for one no-step entry, 32 inch clearance in doors and hallways and reinforced wall in baths.
5. State of Georgia. 2002. *Easy Living Home Project* is a partnership between accessibility advocates, AARP and the Home Builders association of Georgia. Homes are certified with provision of a no-step entrance, trouble free use of bedroom, kitchen, full bath and living room on main floor and 32 inch clearance on all door openings on main floor. Project targets houses, duplexes and attached houses.
6. Livermore, CA. 1987. Housing Implementation Program rewards points toward growth management permits by incorporating universal design features.
7. Bolingbrook, IL. 1999. Persuading builders to construct visitable homes is accomplished through "jawboning" by mayor, village attorney and community development director at required pre-development meeting.

Appendix B

Roster of Participants in the Visitability Working Group and Public Meeting

Name	Mailing Address
Kevin Gittens	8912 Fox Lake Drive
Laura Muir	1411 Oak Haven Rd.
Alan Muir	1411 Oak Haven Rd, 37932
Dennis Clark	469 Mahoney Rd, Oliver Springs
Maria Fox	PO Box 51770, 37950
Marie Alcorn	PO Box 51650, 37950-1650
Laura Payne	5624 Griffin's Gate Lane, 37912
Beth Rictchie	11029 Flotilla Dr., 37934
Jennifer Goggin	7612 Michaels Ln, 37920
Louise McKown	4918 N. Broadway, 37918
Josh McGill	2824 Delrose Dr, 37914
Tom Reynolds	City of Knoxville
Chris Bartou	329 Land Oak Dr., 37922
Tom Rogers	8550 Kingston Pk, 37919
Karen Rogers	344 Eldorado Cir., Seymour 37865
Lillian Burch	1549 Fox Hollow Tr.,
Ray Hyde	Box 27468, 37927
Stephanie Cook	City of Knoxville
Jonathon Cook	6613 Lillian Dr., 37920
Jim Fox	6224 McNeely Rd, Corryton, 37721
Thomas Kahler	900 E Hill Ave, Suite 120, 37915
Rob Frost	PO Box 300, 37901
Scottie Baxter	1105 Inglewood Dr., 37914

END NOTES

- ¹ Howard County Zoning Regulations. July, 2006. Retrieved 2007 from <http://www.co.ho.md.us/DPZ>.
- ² Concrete Change. Retrieved 2007 from <http://www.concretechange.org>.
- ³ U.S. Department of Justice. Retrieved 2007 from <http://www.usdoj.gov/crt/housing/title8.htm>.
- ⁴ Universal Design in Housing. January, 2006. Retrieved 2007 from http://www.design.ncsu.edu/cud/pubs_p/docs/UdinHousing.pdf.
- ⁵ Concrete Change. Retrieved 2007 from <http://www.concretechange.org>.
- ⁶ Zola, Irving. 1989. Toward the Necessary Universalizing of a Disability Policy. *Milbank Quarterly* 67; 401-428.
- ⁷ Kochera, Andrew. 2002. Accessibility and Visitability Features in Single Family Homes: A Review of State and Local Activity. Washington, D.C.: American Association of Retired Persons.
- ⁸ Metropolitan Planning Commission, 2001-2006. Development Activity Report.
- ⁹ Concrete Change. Retrieved 2007 from <http://www.concretechange.org>.
- ¹⁰ Concrete Change. Retrieved 2007 from <http://www.concretechange.org>.
- ¹¹ Concrete Change. Retrieved 2007 from <http://www.cocretechange.org/cost.htm>.
- ¹² Concrete Change. 2004. Retrieved 2007 from <http://www.concretechange.org/buildersaffirm.htm>.
- ¹³ EasyLiving Homes. Retrieved 2007 from <http://www.easylivinghome.org>.

Lafayette, Colorado, Code of Ordinances >> - CODE OF ORDINANCES >> Chapter 30 - BUILDINGS AND BUILDING REGULATIONS >> ARTICLE XV. VISITABILITY >>

ARTICLE XV. VISITABILITY

[Sec. 30-407. Title.](#)

[Sec. 30-408. Legislative findings.](#)

[Sec. 30-409. Purpose.](#)

[Sec. 30-410. Applicability.](#)

[Sec. 30-411. Definitions.](#)

[Sec. 30-412. Required percentage of dwelling units.](#)

[Sec. 30-413. Visitability requirements.](#)

[Sec. 30-414. Marketing.](#)

[Sec. 30-415. Cash in lieu fee.](#)

[Sec. 30-416. Waiver.](#)

Sec. 30-407. Title.

These regulations may be known at the "Visitability Regulations" and may be cited as such.

(Ord. No. 2007-39, § 3, 8-4-07)

Sec. 30-408. Legislative findings.

The city council finds that the provisions contained herein are declared as a matter of legislative determination and public policy to be necessary to secure and promote the public health, comfort, convenience, safety, and welfare.

(Ord. No. 2007-39, § 3, 8-4-07)

Sec. 30-409. Purpose.

The purpose of this article is to further the public policy of the City of Lafayette to provide that certain new residential developments include dwelling units with visitable features and that residential building construction be designed and built to provide visitability and enhanced livability for persons with limited mobility, as well as to encourage home designs that allow owners to enter and move about freely as they age. Visitability is a set of construction requirements that will allow homeowners to more easily welcome guests of all abilities into their homes. In addition, homes built with visitable features often allow homeowners to remain in their homes as they age, reducing the cost of retrofitting the dwelling unit.

(Ord. No. 2007-39, § 3, 8-4-07)

Sec. 30-410. Applicability.

- (a) The provisions of this article shall apply only to residential developments that:
- 1) Are designed to accommodate four (4) or more residential dwelling units, and
 - 2) Have not obtained preliminary plan/planned unit development (PUD) or minor

subdivision plan approval, as appropriate, prior to the effective date of this article (September 14, 2007).

- (b) For the purpose of applying this subsection, all real property at one (1) location in Lafayette under common ownership or control, including contiguous (without regard to intervening streets, rights-of-way, watercourses and undevelopable outlots or tracts) real property owned or controlled by separate corporations in which any applicant or family member of the applicant owns ten (10) percent or more of the stock or ownership interest shall be included. This article shall not be circumvented by submitting piecemeal applications for preliminary plan/PUD review or minor subdivision plan review.
- (c) The visitability requirements set forth in this article are in addition to the accessibility requirements set forth in the International Building Code, International Residential Code, or state or federal law. Any dwelling unit that meets such standards for accessible housing as well as the visitability requirements set forth herein shall count toward the visitable home requirement.

(Ord. No. 2007-39, § 3, 8-4-07)

Sec. 30-411. Definitions.

Dwelling means a building or portion thereof used for residential occupancy, and conforming to any building code, fire code and safety code adopted by the City of Lafayette.

Dwelling unit means a structure or portion of a structure designed for occupancy as a residence by a single family.

Mixed-use development means a development consisting of one (1) or more principal buildings containing, either individually or collectively, both residential and nonresidential principal uses.

Residential development means the subdividing of land into two (2) or more parcels (lots, outlots, or tracts) designed for residential use, including mixed-use development with residential components and single lot or tract developments that are used for residential purposes.

Visitable dwelling unit means a dwelling unit that complies with the requirements of article XV of [chapter 30](#) of the Lafayette Code of Ordinances.

Visitable floor level means the floor level of the visitable dwelling unit that is accessed by the visitable route.

Visitable route means the pathway that leads to an entrance of a visitable dwelling unit. Such pathway does not include any steps or stair risers and does not include provisions for a chair lift.

(Ord. No. 2007-39, § 3, 8-4-07)

Sec. 30-412. Required percentage of dwelling units.

- (a) No fewer than twenty-five (25) percent of all dwelling units located within any residential development shall be designated, designed and constructed to comply with the visitability requirements of [section 30-413](#)

Multifamily developments, and mixed-use developments that include a vertical mix of uses, that have less than twenty-five (25) percent of the total number of dwelling units located on the ground floor level shall have those dwelling units that are not located at the ground floor level exempt from these regulations; provided, however, that all ground floor units shall be visitable dwelling units as defined herein. Accessory dwelling units not located on the ground floor level are also exempt from

these regulations.

- (b) If the calculation of the number of visitable dwelling units that are required pursuant to subsection (a) above results in a whole number and a fraction that is equal to or greater than seventy-five (75) percent then the total number of visitable dwelling units required within the residential development shall be equal to the whole number plus one (1). If the calculation of the number of visitable dwelling units that are required pursuant to subsection (a) above results in a whole number and a fraction that is less than seventy-five (75) percent then the total number of visitable dwelling units required within the residential development shall be equal to the whole number.

(Ord. No. 2007-39, § 3, 8-4-07)

Sec. 30-413. Visitability requirements.

- (a) **Visitable route.** One (1) zero-step entrance route (no steps/stair risers) shall be provided to every visitable dwelling unit. The route shall have a minimum width of thirty-six (36) inches. The maximum allowed slope shall be 1:12 (eight and three-tenths (8.3) percent) and shall comply with Section R311.6 of the International Residential Code 2006 (IRC 2006).

The zero-step entrance into a visitable floor level of the dwelling unit is allowed to be located at the front, sides, or rear of the dwelling unit, or in an attached garage. When the zero-step entrance is located within an attached garage the visitable route shall begin within the garage. When the zero-step entrance is not located within an attached garage then the visitable route shall begin at the opposite end of the thirty-six-inch wide walkway that connects to the visitable entrance. The building official, or his/her representative, shall be responsible for determining where the visitable route begins in the event that an interpretation is necessary.

- (b) **Doors and doorways.** The zero-step entrance route door and all interior doors and doorways on the visitable floor level, except those serving closets or pantries less than fifteen (15) square feet in area, intended for user passage shall have minimum net clear opening width of thirty-two (32) inches and shall comply with Section 404.2.2 of the International Code Council/American National Standards A117.1-2003 (ICC/ANSI A117.1-2003).

Where provided, thresholds on the visitable floor level at doorways shall have a maximum beveled height of one-half ($\frac{1}{2}$) inch and shall comply with Section 404.2.4 ICC/ANSI A117.1-2003.

Door hardware on doors required to comply with the minimum thirty-two-inch net clearing opening width shall include handles, pulls, latches, and/or locks in compliance with Section 404.2.6 ICC/ANSI A117.1-2003.

- (c) **Interior hallways.** All interior hallways on the visitable floor level shall have a minimum clear width of thirty-six (36) inches and shall comply with Table 403.5 ICC/ANSI A117.1-2003.
- (d) **Bathrooms.** The visitable floor level shall include at least one (1) bathroom, which shall, at a minimum, contain a water closet (toilet) and lavatory (sink). The minimum net clear floor area of the visitable bathroom shall be thirty (30) inches by forty-eight (48) inches and shall comply with Section 305 ICC/ANSI A117.1-2003. Additional net clear floor area shall be required, if necessary, to accommodate the opening and closing of the bathroom door.

All bathrooms, regardless of their location within the dwelling unit, shall include reinforced walls in order to allow the installation of horizontal grab bars between thirty-three (33) inches and thirty-six (36) inches above the floor in compliance with Section 609.4 ICC/ANSI A117.1-2003 for all walls adjacent to water closets (toilets), shower stalls, and bathtubs.

(Ord. No. 2007-39, § 3, 8-4-07)

Sec. 30-414. Marketing.

When model homes are provided as part of the development, at least one (1) single-family dwelling unit model, one (1) two-family dwelling unit model and one (1) multifamily dwelling unit model, as defined in chapter 26 of the Lafayette Code or Ordinances, shall comply with the requirements of section 30-413. Visitable features shall be listed as an option in all marketing materials for all units within the residential development.

(Ord. No. 2007-39, § 3, 8-4-07)

Sec. 30-415. Cash in lieu fee.

- (a) If a developer desires to provide cash in lieu of complying with all or part of the visitability regulations then he/she shall, prior to submitting the development's preliminary plan application to the planning commission, seek the approval of the city council for such cash in lieu of visitable dwelling units.
- (b) The cash in lieu fee shall be established by a resolution of city council.
- (c) The cash in lieu fee shall be placed in an account and shall be used only to benefit qualified persons, as determined by the city council, seeking assistance to make existing Lafayette housing stock visitable or accessible.

(Ord. No. 2007-39, § 3, 8-4-07)

Sec. 30-416. Waiver.

- (a) The requirements of article XV of this chapter may be waived, in whole or in part, by the city council based on a recommendation of the planning commission.
- (b) A waiver may be granted if the developer demonstrates the following:
 - (1) That the number of lots having an excessive slope or other site conditions makes it impracticable to comply with the requirements.
 - (2) That the number of lots subject to property restrictions, such as easements, makes it impracticable to comply with the requirements.
- (c) The developer seeking a waiver shall file all documents necessary to prove the existence of the waiver standards herein concurrently with the submittal of the preliminary plan to the planning commission.
- (d) In the event a lot owner, owning a lot designated by an approval final plan/PUD or minor subdivision plan as a visitable lot, desires to obtain a waiver of the visitability requirements the council may consider such request based upon a recommendation of the planning commission. If the lot owner fails to demonstrate that excessive slope or property restrictions makes it impracticable to comply with the requirements then the council may consider, at its sole discretion, a request by the lot owner for a cash in lieu payment.

(Ord. No. 2007-39, § 3, 8-4-07)

ORDINANCE NO. C-7807
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LONG BEACH AMENDING
THE LONG BEACH MUNICIPAL CODE BY ADDING CHAPTER 18.96, RELATING TO
VISITABILITY OF RESIDENTIAL DWELLING UNITS

The City Council of the City of Long Beach ordains as follows:

SECTION 1. The Long Beach Municipal Code is amended by adding Chapter 18.96 to read as follows:

CHAPTER 18.96
VISITABILITY OF DWELLING UNITS

Sections:

18.96.010 Purpose and Intent.

18.96.020 Definitions. 18.96.030 Applicability of Visitability Requirements. 18.96.040 Design and Construction Requirements 18.96.050 Exemption

18.96.010 Purpose and Intent.

The purpose of this Chapter is to provide regulations which will make certain dwelling units visitable by disabled persons. This chapter shall be applicable to new construction of single-family or duplex dwelling units which receive assistance from the City as defined below. Additions or alterations to existing Affected Dwelling Units are exempt.

18.96.020 Definitions. For the purpose of this Chapter, the following definitions shall apply:

"Affected Dwelling Unit" means new construction which is a single-family or duplex residential unit, the developer, builder or owner of which receives City Assistance for construction. In the case of a duplex, each unit shall be considered an Affected Dwelling Unit subject to this Chapter.

"City Assistance" means funding in the form of loans or grants from the City, or any agency or program in which the City participates, including but not limited to:

A. A building contract or similar contractual agreement involving a City-funded program or fund, or a program or fund in which the City participates in decision-making on funding, including the Long Beach Redevelopment Agency and the Long Beach Housing Development Company;

B. A real estate purchase, lease, or donation by the City or its agents;

C. Preferential tax treatment, bond assistance, mortgage assistance, or similar financial advantages from the City or its agents;

D. Disbursement of federal or state construction funds including Community Development Block Grant funds; or

E. A City contract to provide funding or a financial benefit for housing.

18.96.030 Applicability of Visitability Requirements.

Each Affected Dwelling Unit shall meet the requirements of Section 18.96.040.

18.96.040 Design and Construction Requirements.

A. Accessible Entrances - An Affected Dwelling Unit must provide at least one accessible entrance that complies with the following:

1. The accessible entrance door must have a minimum net clear opening of 32 inches (32"), measured between the face of the door and the stop, when the door is in the 90-degree (90°) open position.
2. A floor or landing shall be provided on each side of the accessible door, measuring 44 inches (44") at right angles to the plane of the door in its closed position. The floor or landing on the interior side shall be level. The exterior side may be sloped up to one-fourth inch (1/4") per foot.
3. The width of the level area on the side to which the door swings shall extend twenty-four inches (24") past the strike edge of the door if the door swings to the outside and eighteen inches (18") past the strike edge if the door swings into the unit.
4. The floor or landing on the exterior side shall not be more than one-half inch (1/2") below the floor level on the inside of the door.
5. The floor or landing shall not be more than one-half inch (1/2") lower than the threshold of the doorway, except at sliding doors where it may be three-fourth inches (3/4").
6. On the interior side of the door only, hardware shall be located between thirty inches (30") and forty-four inches (44") above the floor. Hand-activated hardware shall be operable with a single effort by lever-type hardware, panic bars, push-pull activating bars, or other hardware designed to provide passage without requiring the ability to grasp the opening hardware.
7. The accessible entrance may be at the front, side or back of the Affected Dwelling Unit.
8. An accessible route that can be negotiated by a person using a wheelchair shall be provided that connects the accessible entrance to the sidewalk, garage or driveway such that the Affected Dwelling Unit can be entered from the public right-of-way.

B. Accessible Routes Within the Dwelling Unit.

An Affected Dwelling Unit must provide an accessible route through the hallways and passageways of the first floor of the dwelling unit. The route must provide a minimum width of 36 inches (36") and be level with ramped or beveled changes at door thresholds, except that sunken or raised areas shall be permitted when an accessible route that connects a portion of the living or family room, bathroom, and the accessible entrance door is provided.

C. Bathroom.

At least one bathroom, consisting of at least a toilet and a lavatory, must be provided on the first floor of an Affected Dwelling Unit, using the following standards:

1. Door - door or opening into the bathroom shall provide a minimum of thirty-two inches (32") nominal clear space, measured between the face of the door and the stop, when the door is in the 90-degree (90°) open position. A thirty-four inch (34") door is acceptable. Door hardware shall meet the requirements of Section 18.96.040.A.6 on both sides of the door.
2. A clear space measuring thirty inches by forty-eight inches (30" x 48") inside the bathroom shall be provided. This space may include maneuverable space under fixtures, if provided.
3. Light Switches - A light switch located no higher than forty-two inches (42") above the floor shall be provided inside the bathroom.
4. Grab Bar Backing - a. Where the toilet is placed adjacent to a side wall, reinforcement shall be installed on both sides or one side and the back. If reinforcement is installed at the back it shall be installed between thirty-two inches (32") and thirty-eight inches (38") above the floor. The grab bar reinforcement shall be a minimum of 6 inches (6") nominal in height. The backing shall be a minimum of forty inches (40") in length. Reinforcement installed at the side of the toilet shall be installed thirty-two inches (32") to thirty-eight inches (38") above the floor. The reinforcement shall be installed a maximum of twelve inches (12") from the rear wall and shall extend a minimum of twenty-six inches (26") in front of the water closet stool. The grab bar reinforcement shall be a minimum of 6 inches (6") nominal in height.

b. Where the toilet is not placed adjacent to a side wall, the bathroom shall have provisions for installation of floor-mounted, foldaway or similar alternative grab bars. The reinforced wall or floor shall be capable of supporting a load of at least two hundred and fifty (250) pounds.

18.96.050 Exemption

1. When the Building Official determines that compliance with any portion of any regulation under this Chapter would create an undue hardship and that equivalent facilitation is available, an exception to that portion of the regulation shall be granted when equivalent facilitation is provided.
2. When the Building Official determines that compliance with any portion of any regulation under this Chapter would create an undue hardship due to topographical conditions of the site and that no equivalent facilitation is available, an exemption to that portion of the regulation shall be granted.

SEC. 2. The City Clerk shall certify to the passage of this ordinance by the City Council and cause it to be posted in three conspicuous places in the City of Long Beach, and it shall take effect on the thirty-first day after it is approved by the Mayor. I hereby certify that the foregoing ordinance was adopted by the City Council of the City of Long Beach at its meeting of May 28, 2002, by the following vote:



Guidelines

**Voluntary Certification Program for Visit-Ability and Live-Ability in
Single Family Attached and Detached Homes New Construction & Renovation**

January, 2009 Revision



Montgomery County Maryland
Department of Permitting Services
255 Rockville Pike, 2nd Floor
Rockville, Maryland, 20850-4166
240-777-6300 (V)
240-777-6256 (TTY)
240-777-6262 (FAX)

www.montgomerycountymd.gov/permittingservices

Click on Permitting/Building Construction

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Introduction and Purpose

Design for Life Montgomery is the first voluntary certification program in Maryland for Visit-Ability and Live-Ability in single family attached and detached homes located in Montgomery County. Its guidelines apply to both new construction and renovation of existing homes*. Whether you are a first time homebuyer, young family, career professional, active adult, or person living with a temporary or permanent disability, your home will be enhanced by these additional design features which will meet your needs throughout your life.

Unique Features of the Design for Life Montgomery Program:

1. One program with two optional standards of accessibility.
2. Voluntary: follows National Association of Homebuilder's guidelines that support voluntary programs.
3. Targets new construction and renovation of existing homes*.
4. Successful *informal* partnership of county, building/business community and advocates.
5. Administered by the County as part of the regular permitting process, not a special process:
 - A checkbox for review and certification is on the standard application for permit.
 - There are no additional permitting costs, beyond the standard fees.
6. County Council Zoning Text Amendment provides *by right* the use of setback areas for access as an element of the full program.

Features included in the **Design for Life Montgomery** program generally follow principles in the national Visit-ability movement and studies of an emerging design principle called Universal Design. This unique program was specifically designed to meet **basic accessibility standards** and is **NOT** intended to meet the requirements of the Federal Fair Housing Amendments Act of 1988, the Americans with Disabilities Act, or of Universal Design

**Please note: Homes built before the program was initiated can apply to Permitting Services for an Alteration Permit, for a minimal fee, and the home will be inspected by permitting staff for meeting the program requirements, and the owner will be issued a certificate for meeting the standards.*

BENEFITS TO THE HOMEOWNER/HOMEBUYER

Welcomes all visitors
Easier to live in and maneuver
Provides home for life

BENEFITS TO THE BUILDER

Targets new emerging markets
Offers cutting edge features
Recognition of attention to buyer needs

BENEFITS TO THE COMMUNITY INCLUDE

Increased neighborhood continuity
Promotes inclusion of all population segments

Administration Procedure

1. Applicant must indicate on the permit application that the building design includes:
 - ☐ Visit-Ability or ☐ Live-Ability per Montgomery County Guidelines.
2. Applicant must submit two sets of construction drawings including Site plans drawn to scale showing the accessible route from parking to accessible building entrance.
3. After final building inspection, DPS will issue Montgomery County Design for Life Montgomery Certificate for Visit-ability or Live-Ability.

Definitions

- 1) **Accessible:** Describes a site, building, facility, or portion thereof that complies with this certification standard.
- 2) **Accessible route:** An interior or exterior circulation path that complies with the appendix.
- 3) **Alternative Design:** Nothing in these requirements prevents the use of designs, products, or technologies, such as an elevator or lift, as alternatives to those prescribed, provided they result in substantially equivalent or greater accessibility and usability.
- 4) **Building entrance:** Any entrance that allows passage to the visit-able portion of the building.
- 5) **Circulation path:** An interior or exterior way of passage from one place to another for pedestrians.
- 6) **Construction Tolerance:** All dimensions are subject to conventional industry tolerances; 1 inch plus or minus.
- 7) **Design for Life Montgomery is a Two-Tiered Certification Program:**
 - Level I — Visit-Ability** meaning that the home has three basic elements
 1. at least one no-step entrance located at the front door, back door, side door(any door), deck or through the garage connected to an accessible route to a place to visit on that level,
 2. a useable powder room or bathroom,
 3. 32 inch or 2' x 10" nominal clear width interior door(s).
 - Level II — Live-Ability** includes the three basic design features of Level I, but also requires a circulation path that connects the accessible entrance to at least one bedroom, full bath, and kitchen. Please also see definition of Alternative Design.

Requirements (Level I Accessibility that provides Visit-Ability):

1. At least one entrance shall have a no step entry at the front door, back door, side door (any door), deck or through the garage on an accessible route. The accessible route shall extend from a vehicular drop off, or parking to a no step building entrance. The circulation paths shall connect the accessible entrance to at least one powder room or bathroom, and one other room that can accommodate visitation. The circulation path shall be at least 36 inches wide.

Accessible routes shall consist of one or more of the following components:

- Walking surfaces with a slope not steeper than 1:20,
- Doorways, ramps, curb ramps, elevators, and wheelchair (platform) lifts.
- Floor or ground surfaces shall be stable, firm, and slip resistant.

2. Dwelling units with a building entrance on an accessible route shall be designed in such a manner that all the doorways designed to allow passage into and within all areas required to be accessible in item 3 below, have a clear opening width of at least 32 inches when the door is open 90 degrees, measured between the face of the door and the stop. Openings more than 24 inches in depth are not considered doorways.
3. The powder room/bathroom on the circulation path shall be large enough to accommodate a clear space of 2'-6" by 4'-0" within the room to position a wheelchair or other mobility aid clear of the path of the door as it is closed.

Bathroom on the accessible level shall conform to the following:

- a. The bathroom shall contain at least one sink, one toilet and one shower or bathtub.
- b. Where the door swings into the bathroom, there is a clear space of 2'-6" by 4'-0" within the room to position a wheelchair or other mobility aid clear of the path of the door as it is closed and to permit use of fixtures. This clear space can include any knee space and toe space available below bathroom fixtures.
- c. Where the door swings out, a clear space of 2'-6" by 4'-0" is provided within the bathroom for a wheelchair user or a person using other mobility aid to position the wheelchair such that the person is allowed to use the fixtures. There shall be clear space to allow the wheelchair user to reopen the door to exit.

Requirements (Level II Accessibility that provides Live-Ability):

1. At least one entrance shall have a no step entry at the front door, back door, side door (any door), deck or through the garage on an accessible route. The accessible route shall extend from a vehicular drop off, or parking to a building entrance. The circulation paths shall connect the accessible entrance to at least one bathroom, kitchen, one bedroom and one other room that can accommodate visitation. The circulation path shall be at least 36 inches wide.

Accessible routes shall consist of one or more of the following components:

- Walking surfaces with a slope not steeper than 1:20,
- Doorways, ramps, curb ramps, elevators, and wheelchair (platform) lifts.
- Floor or ground surfaces shall be stable, firm, and slip resistant.

2. Dwelling unit(s) with a building entrance on an accessible route shall be designed in such a manner that all the doorways designed to allow passage into and within all areas required to be accessible in item 3 below, have a clear opening nominal width of at least 32 inches when the door is open 90 degrees, measured between the face of the door and the stop. Openings more than 24 inches in depth are not considered doorways.
3. Dwelling units with a building entrance on an accessible route shall be designed and constructed in such a manner that the accessible level contains a usable kitchen and bathroom such that a wheelchair user can maneuver about the space.

A usable kitchen shall comply with the following:

- a. A clear floor space at least 30 inches by 48 inches that allows a parallel approach by a person in a wheelchair is provided at the range or cook top and sink, and either a parallel or forward approach is provided at oven, dishwasher, refrigerator or freezer and trash compactor.
- b. Clearance between counters and all opposing base cabinets, countertops, appliances or walls is at least 36 inches.
- c. In U-shaped kitchens with sink or range or cook top at the base of the "U", a 60-inch turning radius is provided to allow parallel approach, or base cabinets are removable at that location to allow knee space for a forward approach.

4. Bathroom on the accessible level shall conform to the following:
 - a. The bathroom shall contain at least one sink, one toilet and one shower or bathtub.
 - b. Where the door swings into the bathroom, there is a clear space of 2'-6" by 4'-0" within the room to position a wheelchair or other mobility aid clear of the path of the door as it is closed and to permit use of fixtures. This clear space can include any knee space and toe space available below bathroom fixtures.
 - c. Where the door swings out, a clear space of 2'-6" by 4'-0" is provided within the bathroom for a wheelchair user or a person using other mobility aid to position the wheelchair such that the person is allowed to use the fixtures. There shall be clear space to allow the wheelchair user to reopen the door to exit.
 - d. When both tub and shower fixtures are provided in the bathroom, at least one is made accessible. When two or more lavatories in a bathroom are provided, at least one is accessible.
 - e. The bathroom shall contain reinforcements in walls to allow later installation of grab bars around toilet, tub, shower stall and shower seat.

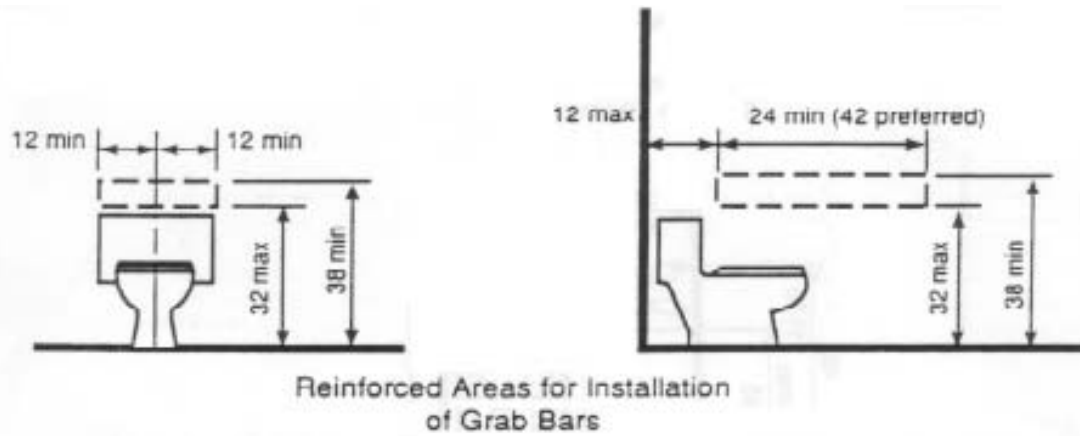


Fig. 3 Water Closets in Adaptable Bathrooms

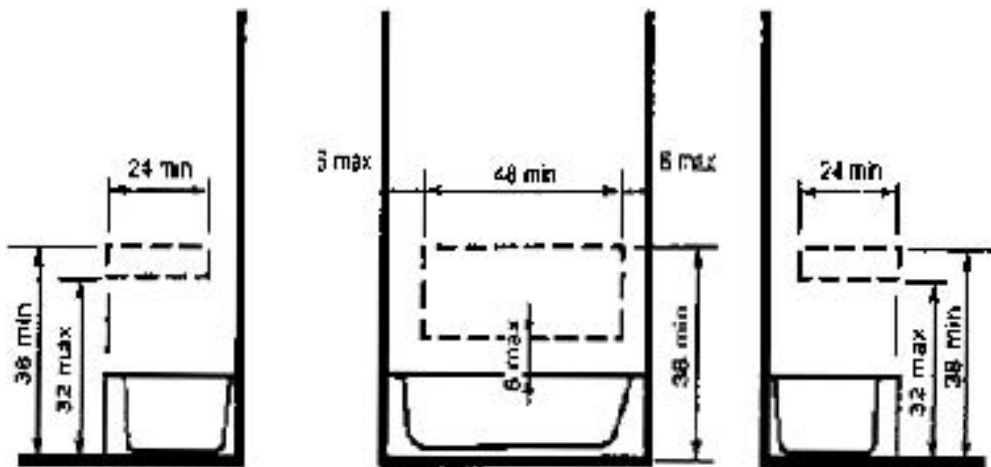


Fig 4: Location of Grab Bar Reinforcements for Adaptable Bathtubs

NOTE The areas outlined in dashed lines represent locations for future installation of grab bars for typical fixture configurations.

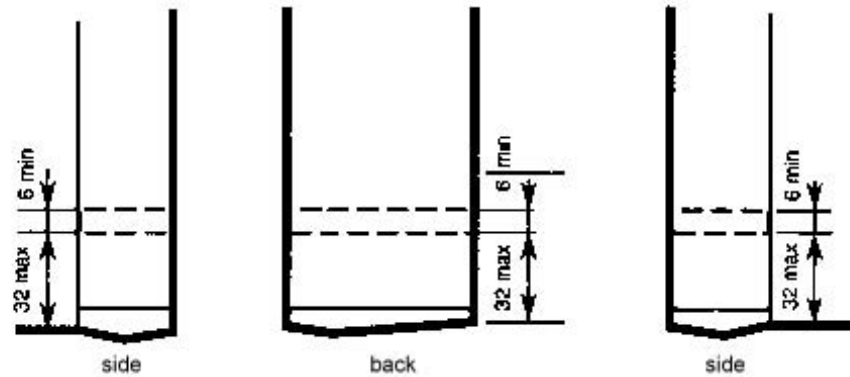


Fig. 5 Location of Grab Bar Reinforcements for Adaptable Showers

NOTE: The areas outlined in dashed lines represent locations for future installation of grab bars.

- f. In locations where toilets are adjacent to walls, bathtub, or vanity the center line of the fixture is a minimum of 1'-6" from the obstacle.
- g. Vanities and lavatories are installed with the centerline of the fixture a minimum of 1'-3" horizontally from an adjoining wall. If knee space is provided below the vanity, the bottom of the apron is at least 2'-3" above the floor. If provided, full knee space (for front approach) is at least 1'-5" deep.
- h. Bathtubs and tub/showers located in the bathroom provide a clear access aisle that is at least 2'-6" wide and extends for a length of 4'-0" (measured from the foot of the bathtub).
- i. Stall showers in the bathroom may be of any size or configuration. A minimum clear floor space 2'-6" wide by 4'-0" should be available outside the stall. If the shower stall is the only bathing facility provided in the dwelling unit, and measures a nominal 36" x 36", the shower stall must have reinforcing to allow for installation of an optional wall hung bench seat.

Alternative Design: Nothing in these requirements prevents the use of designs, products, or technologies, such as an elevator or lift, as alternatives to those prescribed, provided they result in substantially equivalent or greater accessibility and usability.

APPENDIX

ACCESSIBLE ROUTES

100. General. Accessible routes shall comply with this appendix

100.1 Components. Accessible routes shall consist of one or more of the following components: walking surfaces with a running slope not steeper than 1:20, and ramps. All components of an accessible route shall comply with this appendix.

101 Walking Surfaces

101.1 General. Walking surfaces that are a part of an accessible route shall comply with 101.

101.2 Floor or Ground Surface. Floor or ground surfaces shall comply with 103.

101.3 Slope. The running slope of walking surfaces shall not be steeper than 1:20. The cross slope of walking surfaces shall not be steeper than 1:48.

101.4 Changes in Level. Changes in level shall comply with 103.4.

101.5 Clearances. Walking surfaces shall provide clearances complying with 101.5.

101.5.1 Clear Width. Except as provided in 101.5.2 and 101.5.3, the clear width of walking surfaces shall be 36 inches (915 mm) minimum.

EXCEPTION: The clear width shall be permitted to be reduced to a 32 inch (815 mm) nominal clear width minimum for a length of 24 inches (610 mm) maximum provided that reduced width segments are separated by segments that are 48 inches (1220 mm) long minimum and 36 inches (915 mm) wide minimum.

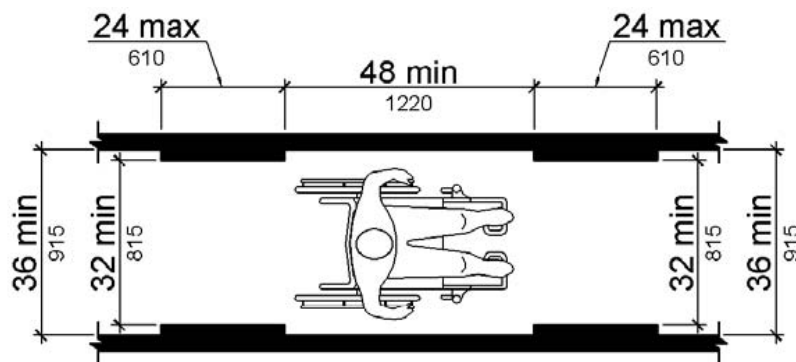


Fig. 1

101.5.2 Clear Width at Turn. Where the accessible route makes a 180 degree turn around an element which is less than 48 inches (1220 mm) wide, clear width shall be 42 inches (1065 mm) minimum approaching the turn, 48 inches (1220 mm) minimum at the turn and 42 inches (1065 mm) minimum leaving the turn.

EXCEPTION: Where the clear width at the turn is 60 inches (1525 mm) minimum compliance with 101.5.2 shall not be required.

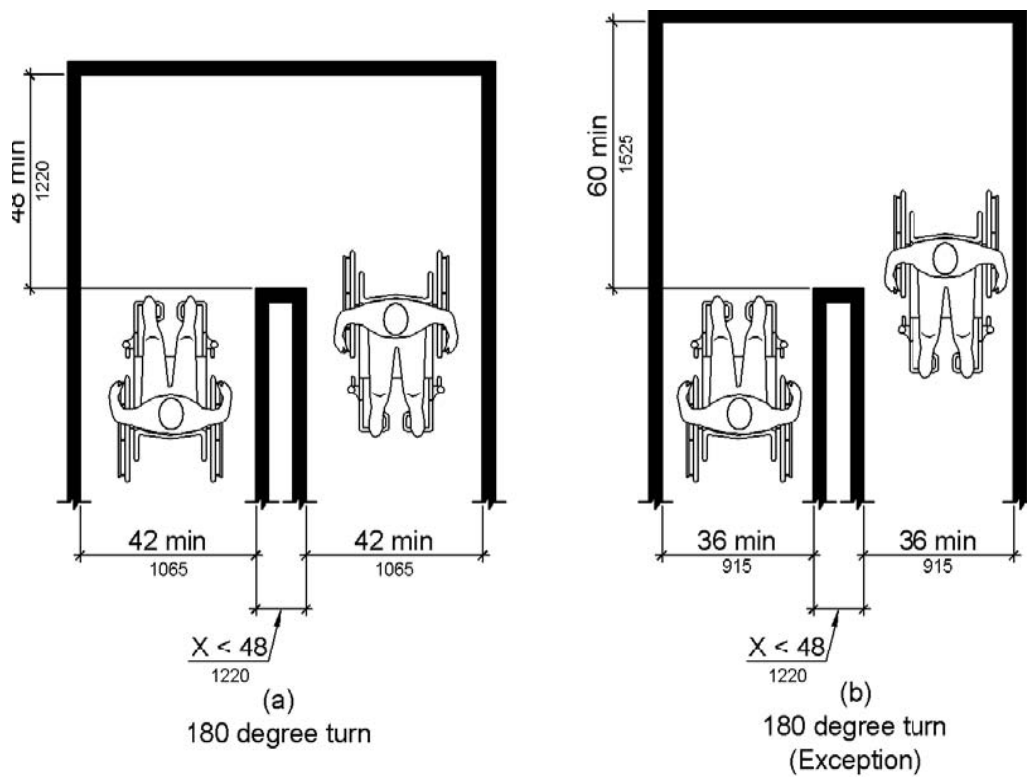


Fig.2

101.5.3 Passing Spaces. An accessible route with a clear width less than 60 inches (1525 mm) shall provide passing spaces at intervals of 200 feet (61 m) maximum. Passing spaces shall be either: a space 60 inches (1525 mm) by 60 inches (1525 mm) minimum; or, an intersection of two walking surfaces providing a T-shaped space complying with fig 3 where the base and arms of the T-shaped space extend 48 inches (1220 mm) minimum beyond the intersection.

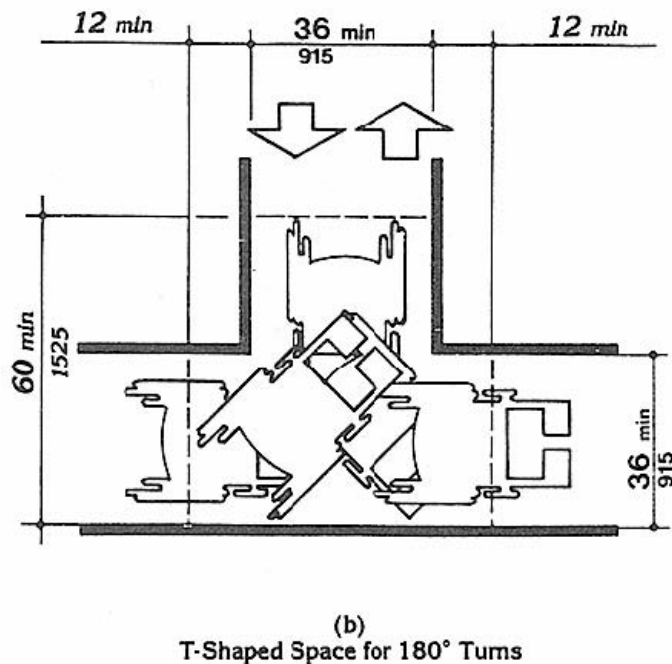


Fig.3

102 Ramps

102.1 General. Ramps on accessible routes shall comply with 102.

EXCEPTION: In assembly areas, aisle ramps adjacent to seating and not serving elements required to be on an accessible route shall not be required to comply with 102.

102.2 Slope. Ramp runs shall have a running slope not steeper than 1:12.

EXCEPTION: In existing sites, buildings, and facilities, ramps shall be permitted to have running slopes steeper than 1:12 complying with Table 102.2 where such slopes are necessary due to space limitations.

Table 102.2 Maximum Ramp Slope and Rise for Existing Sites, Buildings, and Facilities

Slope ¹	Maximum Rise
Steeper than 1:10 but not steeper than 1:8	3 inches (75 mm)
Steeper than 1:12 but not steeper than 1:10	6 inches (150 mm)

1. A slope steeper than 1:8 is prohibited

102.3 Cross Slope. Cross slope of ramp runs shall not be steeper than 1:48.

102.4 Floor or Ground Surfaces. Floor or ground surfaces of ramp runs shall comply with 103. Changes in level other than the running slope and cross slope are not permitted on ramp runs.

102.5 Clear Width. The clear width of a ramp run and, where handrails are provided, the clear width between handrails shall be 36 inches (915 mm) minimum.

102.6 Rise. The rise for any ramp run shall be 30 inches (760 mm) maximum.

102.7 Landings. Ramps shall have landings at the top and the bottom of each ramp run. Landings shall comply with 102.7.

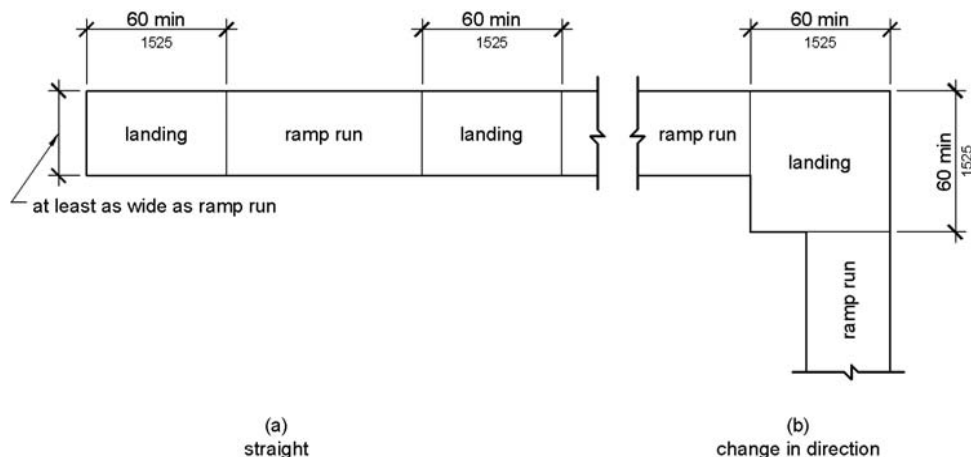
102.7.1 Slope. Landings shall comply with 103. Changes in level are not permitted.

EXCEPTION: Slopes not steeper than 1:48 shall be permitted.

102.7.2 Width. The landing clear width shall be at least as wide as the widest ramp run leading to the landing.

102.7.3 Length. The landing clear length shall be 60 inches (1525 mm) long minimum.

102.7.4 Change in Direction. Ramps that change direction between runs at landings shall have a clear landing 60 inches (1525 mm) minimum by 60 inches (1525 mm) minimum.



102.8 Handrails. Handrails shall be provided where required by the applicable International Building Code (IRC/IBC) and shall be constructed in accordance with IRC.

102.9 Edge Protection. Ramps and landings with drop-offs shall have curbs, walls, railings, or projecting surfaces that prevent people from slipping off the ramp. Curbs shall be a minimum 2 in (50mm) high.

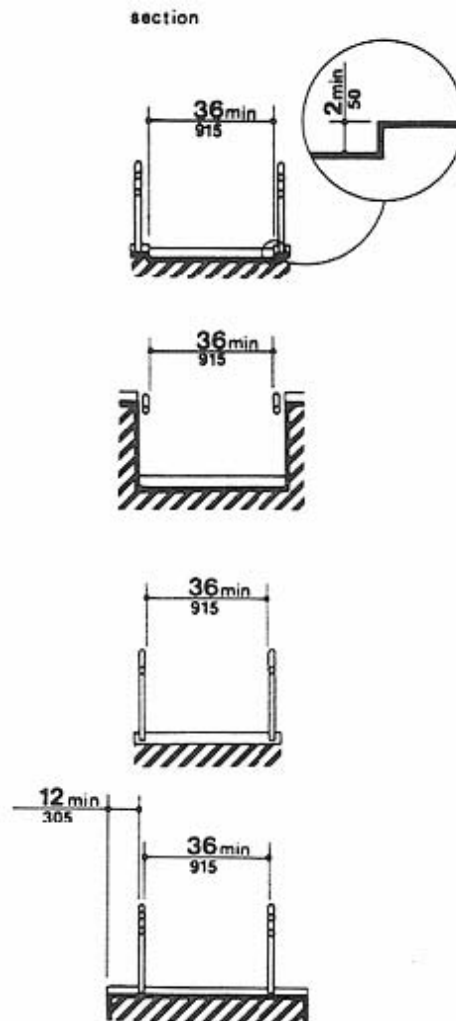
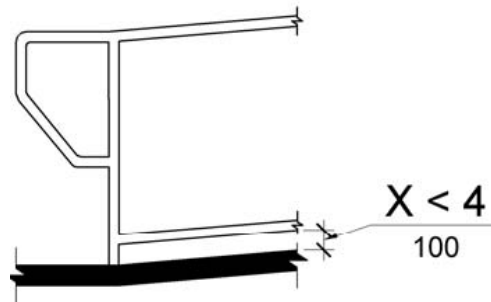


Figure 17
Examples of Edge Protection

102.9.2 Curb or Barrier. A curb or barrier shall be provided that prevents the passage of a 4 inch (100 mm) diameter sphere, where any portion of the sphere is within 4 inches (100 mm) of the finish floor or ground surface.

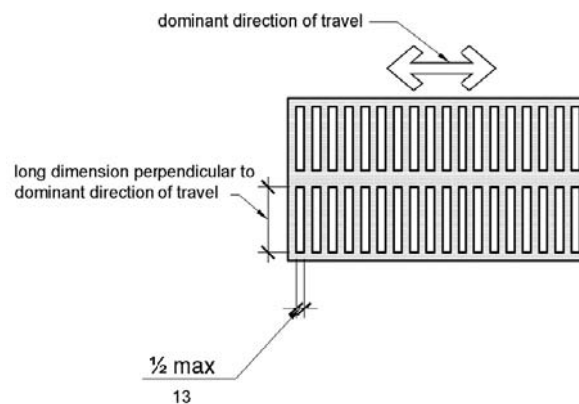


104. Guards. Guards shall be provided where required by the applicable International Building Code (IRC/IBC) and shall be constructed in accordance with IRC.

105 Floor or Ground Surfaces

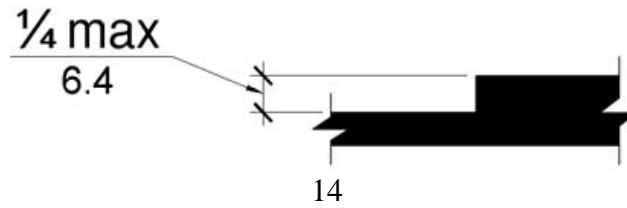
105.1 General. Floor and ground surfaces shall be stable, firm, and slip resistant and shall comply with 105.

105.2 Openings. Openings in floor or ground surfaces shall not allow passage of a sphere more than $\frac{1}{2}$ inch (13 mm) diameter. Elongated openings shall be placed so that the long dimension is perpendicular to the dominant direction of travel.

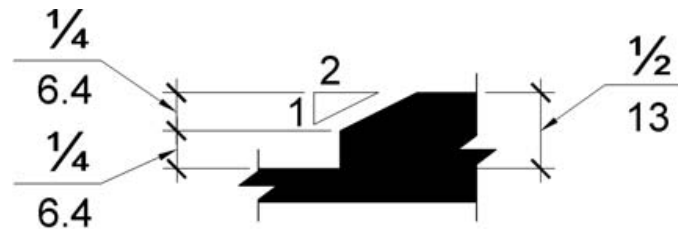


105 .3 Changes in Level. Where changes in level are permitted in floor or ground surfaces, they shall comply with this section.

105.3.1 Vertical. Changes in level of $\frac{1}{4}$ inch (6.4 mm) high maximum shall be permitted to be vertical.



105.3.2 Beveled. Changes in level between $\frac{1}{4}$ inch (6.4 mm) high minimum and $\frac{1}{2}$ inch (13 mm) high maximum shall be beveled with a slope not steeper than 1:2.



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Part 2. Specific Standards and Criteria

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18.78.210 Schools.

A. The provision of school facilities and amenities as attested by agreement with the Morgan Hill Unified School District (MHUSD) to the extent such consideration is not in conflict with state law. (twenty-five points)

B. Standard and Criteria:

1. Sixteen points will be awarded for the payment of the district-adopted developer fees as provided by the Leroy F. Greene School Facilities Act of 1998. Full market value credit will be applied to a direct payment to the School District, for donated land, construction, or other services provided by a developer or project property owner that relate to provision of school facilities.
2. Up to six additional points may be awarded to a project where:

At the time of application submittal or applicant commits as part of the first year of the first phase of the current application, a safe walking route exists or will be provided between the project site and existing or planned MHUSD schools. A safe route is defined as continuous sidewalks and/or paved pedestrian pathways, cross walks and traffic signals at designated street intersections between the project and a school site.

The distance to a school is measured as the lineal distance a student would walk, from the average center point of housing in a project to the nearest entrance point of the nearest school grounds.

- a. The project is within three-quarters of a mile of a school serving grades K through 3 and:
 - i. The students are not required to cross railroad tracks, or a street

that is designated within the General Plan as a collector or arterial.
(one point)

- b. The project is within three-quarters of a mile of a school serving grades 4 through 6 and:
 - i. The students are not required to cross railroad tracks, or a street that is designated within the General Plan as an arterial. (one point)
- c. The project is within one and one-half miles of a middle/intermediate school and:
 - i. The students are not required to cross railroad tracks, or a street that is designated within the General Plan as an arterial unless the most direct street crossing can occur at a signalized intersection. (one point)
- d. The project is within one and one-half miles of Live Oak High School or Sobrato High School. (two points)
- e. Proposed development will be for senior citizens as defined in Section 51.2 of the State Civil Code and the RDCS Council Policy defining the senior housing competition category. (six points)

NOTE: For scoring purposes, the anticipated attendance area for an existing or planned school shall be as determined by the Board of Education and published by the School District as of September 15 of the fiscal year for each competition. A planned school is defined as a site designated by the School Board for a future school prior to September 30 of the fiscal year the competition is held. Scoring for a multi-year/phased development includes recognition of all pedestrian safety or traffic improvements provided in the initial or previous phases of the development. Improvements required to establish a safe walking route (sidewalks, paved paths, traffic signals, etc.) must be in place when the project is ready to build or the improvements will be completed by the project.

- 3. Up to six additional points may be awarded to a project which:
 - a. Provides off-site pedestrian safety improvements or traffic safety improvements, including adjacent related roadway improvements near a MHUSD school. Any proposed pedestrian and traffic safety improvements cannot be redundant of improvements committed to in other categories. The cost of the improvements must be valued at eight hundred twenty-five dollars per point per unit. The pedestrian improvements and traffic safety improvements must be made to an elementary school within three-quarters of a mile (straight line distance) of the edge of project site or the same improvements can be made to a middle or high school within the City's Urban Service Area (USA). (up to two points for safety improvements in proximity to a school and up to four points for safety improvements on roadways serving schools within the City's USA)

Note: The public improvements offered under the above subsection must be separate from the public improvements offered under subsection (B)(2)(f) of the Public Facilities Category, subsection (B)(3) of the Circulation Efficiency Category or subsection (B)(4) of the Livable Communities Category.

For safe walking route improvements, applicants must also provide a letter from each intervening property owner stating agreement to dedicate the required street right-of-way for the sidewalk or pathway improvements between the project site and the designated school. Improvements to establish a safe walking route must be completed prior to completion of the twentieth unit in the development or completion of the project, whichever occurs first.

(Ord. 1887 N.S. § 1, 2008; Ord. 1839 N.S. § 1 (part), 2007; Ord. 1731 N.S. Exh. A (part), 2005; Ord. 1677 N.S. § 1 (part), 2004; Ord. 1575 N.S. § 1, 2002; Ord. 1517 N.S. § 1, 2001; Ord. 1486 N.S. §§ 1, 2, 2000; Ord. 1473 N.S. § 44, 2000; Ord. 1404 N.S. § 1, 1998; Ord. 1346 N.S. § 1, 1997; Ord. 1304 N.S. §§ 1, 2, 1996; Ord. 1228 N.S. § 2, 1995; Ord. 1179 N.S. §§ 5, 6, 1994; Ord. 1124 N.S. § 1 (part), 1993; Ord. 1034 N.S. § 1 (part), 1991)
(Ord. No. 1943 N.S., § 1(Exh. A), 6-24-2009; Ord. No. 2017 N.S., 7-27-2011)

18.78.220 Open space.

- A. The provisions of public and/or private usable open space, and where applicable, greenbelts. (twenty points)
 1. The provisions of open space is desirable for the physical and mental well-being of the city residents, as well as preserving a rural atmosphere and invoking a positive reaction to the environment. These open spaces can then be used for both passive and active recreation for all age groups, while also preserving the environment for present and future generations to enjoy.
- B. Standards and Criteria.
 1. Open space areas are provided or maintained within the proposed development.
 - a. Provides open space buffer areas adjacent to freeway or arterial streets, measuring five feet in depth in excess of the zoning code requirements for one point, ten feet in excess of the code for two points (up to two points);
 - b. Public or private common useable open space is encouraged where neighborhood homeowners associations or other acceptable private maintenance entity can be used to coordinate their use and maintenance (one point);
 - c. Provides convenient access to public or private parks internal to the project where appropriate through the use of bicycle and pedestrian pathways. Bicycle and pedestrian pathways shall be located in areas no less than twenty feet wide, with an average width of thirty feet (for the entire length of the path). The pathway provided shall be paved or other suitable durable surface and a minimum of seven feet in width. The proposed pathway(s) cannot be redundant of public sidewalks (one point);
 - d. Provides accessibility to existing or proposed public parks and open space areas outside the project boundary and encourages multiple uses and fee dedication of open space areas adjacent to flood control right of ways and recharge facilities. Points will only be awarded where the relevant public agency has provided written approval to allow access between the project and the aforementioned facilities. The access provided cannot be redundant of the public sidewalk. (one point)

Note: Requires public agency ownership or agreement to accept dedication of the land by the public agency.
 - e. Historical sites and landmarks identified on a local, county, state or federal listing or registry on or adjacent to the project site are maintained in as natural state as possible with limited supportive development such as parking facilities, fencing, signing, etc. The proposed commitment requires staff consultation and concurrence regarding proposed maintenance activity or supportive development related to the historical site or landmark. (up to two points)

Note: Placement of a historical plaque or marker only will be awarded one-half point.
 2. Provides a high ratio of total open space area. (A maximum of nine points will be assigned under subsection a. of this criterion.)

a.	Building Coverage (%)	Points
	55 - < 60	1
	50 - < 55	2
	45 - < 50	3
	40 - < 45	4
	35 - < 40	5
	30 - < 35	6
	25 - < 30	7
	20 - < 25	8
	< 20	9

- b. Building coverage for vertical mixed use projects, projects in the CC-R district or projects zoned R-4 or similar high density zoning classification will be calculated as follows: (A maximum of nine points will be assigned under subsection (b) of this criterion.)

Building Coverage (%)	Points
90 - < 95	3
85 - < 90	4
80 - < 85	5
75 - < 80	6
70 - < 75	7
65 - < 70	8
< 65	9

Building coverage is defined as that portion of the overall project master plan, exclusive of sidewalks, driveways and streets, which is covered by a building, parking lot or carport. In projects with open plazas on a podium above ground level parking, the open plaza space shall be excluded from the calculation for building coverage.

3. Downtown vertical mixed use projects will be awarded up to six points for a commitment to contribute toward a shared open space amenity such as a park, green space along the creek or downtown plaza.
 - a. In addition to the points available under subsection (B)(4) below, a vertical mixed use project will be awarded three points for payment of a downtown open space amenity fee. The amount of the fee shall be equal to the most recent adjusted open space fee (see Note 1 below). Eligible projects that elect to pay double the fee will be awarded six points.
4. There is a maximum of six points available in this category.
 - a. The project will receive three points for a commitment to purchase transferable

development credits (TDCs) from property owners with land of greater than twenty percent slope. (Based upon the ratio of one TDC for every twenty dwelling units proposed.)

- b. Projects of twenty five units or less which do not provide a common area park or open space will receive six points for a commitment to purchase double TDC's.
- c. Projects zoned R-2, R-3, or similar higher density classification will receive six points for a commitment to purchase double TDC's.

Note 1: In lieu of the TDC commitment, projects of twenty five units or less, Downtown Area projects and affordable project developments will be awarded three points for payment of an open space fee at the rate of thirty-six thousand eight hundred eighty dollars per TDC per twenty units, or projects that elect to pay double the open space fee will be awarded six points. The amount of the open space fee shall be based on the average cost per dwelling unit for an equivalent TDC commitment as specified above. The open space fee shall be adjusted annually in accordance with the annual percentage increase or decrease in the median price of a single-family detached home in Santa Clara County. The base year from which the annual percentage change is determined shall be January 1, 2005. The base year may be adjusted by city council resolution prior to the filing deadline for each competition year.

Note 2: Projects containing both single and multifamily zoning will be granted a proportional share of points for commitments to subsections (a) and (c) above. Points will be granted based on a percentage of units within the various zoning districts within the entire overall project. For example, a project of fifty percent R-2 and fifty percent R-1 would receive fifty percent of the six points available under subsection (4)(c) and fifty percent of the three points available for the single-family TDC commitment under (4)(a) for a total of four and one-half points (rounding will occur to the nearest half point).

(Ord. 1839 N.S. § 1 (part), 2007; Ord. 1731 N.S. Exh. A (part), 2005; Ord. 1677 N.S. § 1 (part), 2004; Ord. 1575 N.S. §§ 2, 3, 2002; Ord. 1517 N.S. §§ 2 and 3, 2001; Ord. 1486 N.S. §§ 3, 4, 2000; Ord. 1438 N.S. § 1, 1999; Ord. 1404 N.S. § 2, 1998; Ord. 1346 N.S. § 2, 1997; Ord. 1228 N.S. § 3, 1995; Ord. 1179 N.S. § 7, 1994; Ord. 1124 N.S. § 1 (part), 1993; Ord. 1034 N.S. § 1 (part), 1991)

(Ord. No. 2051 N.S., Exh. A, 8-22-2012)

18.78.230 Orderly and contiguous development.

- A. The extent to which the proposed development accomplishes the orderly and continuous extension of existing development rather than "leapfrog" development, by using land contiguous to urban development within the city limits or near the central core and by the filling in on existing utility lines rather than extending utility collectors. (20 points)

For scoring purposes, "the central core" is the area illustrated on the Central Core Map, attached as Exhibit B and described generally as that area bounded on the west by Del Monte Avenue from Wright Avenue to Ciolino Avenue and by West Little Llagas Creek from Ciolino Avenue to Cosmo Avenue; on the east by the rail road tracks from the easterly prolongation of Wright Avenue to Main Avenue, by Butterfield Boulevard from Main Avenue to Dunne Avenue, and by Church Street from Dunne Avenue to the easterly prolongation of Cosmo Avenue; on the north by Wright Avenue and its easterly prolongation to Church Street.

- 1. A well planned community is one which provides for the needs of its residents. Convenience, economy, and service are aspects which an orderly and contiguous development pattern can help facilitate.
- B. Standards and Criteria.
 - 1. Develops lands near the central core of the city as defined by Exhibit "B" to Measure "C"

approved by the voters on March 2, 2004. There is a benefit for development to be within the central core area. However, it is recognized that the city does not have a well defined central core. Therefore, greater emphasis is to be given to contiguous patterns of growth. Projects within the core area will receive eight points. Projects located outside the core area will receive from zero to seven points depending on their relationship to the core area measured from the centerline of a street as shown below:

- a. Within central core, eight points;
- b. Within six hundred feet of the central core area, seven and one-half points;
- c. Within one thousand two hundred feet of the central core area, seven points;
- d. Within one thousand eight hundred feet of the central core area, six and one-half points;
- e. Within two thousand four hundred feet of the central core area, six points;
- f. Within three thousand feet of the central core area, five and one-half points;
- g. Within three thousand six hundred feet of the central core area, five points;
- h. Within four thousand two hundred feet of the central core area, four and one-half points;
- i. Within four thousand eight hundred feet of the central core area, four points;
- j. Within five thousand four hundred feet of the central core area, three and one-half points;
- k. Within six thousand feet of the central core area, three points;
- l. Within six thousand six hundred feet of the central core area, two and one-half points;
- m. Within seven thousand two hundred feet of the central core area, two points;
- n. Within seven thousand eight hundred feet of the central core area, one and one-half points;
- o. Within eight thousand four hundred feet of the central core area, one point;
- p. Within nine thousand feet of the central core area, one-half point;
- q. More than nine thousand feet from central core area, zero points.

Note: If any portion of a project is within the central core, as defined by the PO, that project shall be considered within the central core area. The distance from the central core shall be measured using the minimum distance between any portion of a parcel and the central core boundary measured in a straight line.

2. Fills in existing utility lines (requires no off-site extensions) and provides a contiguous pattern of growth. If water is available at the site and the water main is of sufficient capacity and supply to serve the proposed project and future development, the project will receive one point. If sewer is available to the site and the sewer main has sufficient capacity to serve the proposed project and future development, the project will receive one point. If storm drains are of sufficient capacity to serve the project and are available to the site, the project will receive one point. If the project is located within the established response time standard of one fire station, the project will receive one point. If the project is located within the established response time standard of two or more fire stations, the project will receive one additional point.
3. A proposed development located within the existing urban service area which provides for orderly growth and urban in-fill is preferable and helps prevent premature urbanization of agricultural land. Projects that provide for orderly growth patterns throughout residential neighborhoods and compatibility with adjacent and nearby land uses are preferable. Projects that are located adjacent to land that has been developed

or approved for development shall be scored as follows:

- a. >0 - 20% Adjacent to existing development, one point;
- b. >20 - 40% Adjacent to existing development, two points;
- c. >40 - 60% Adjacent to existing development, three points;
- d. >60 - 80% Adjacent to existing development, four points;
- e. >80 - 100% Adjacent to existing development, five points.

Adjacent development is defined as contiguous property located within Morgan Hill's city limits, urban service area, or urban growth boundary (UGB) and which is developed to its ultimate potential according to the city's General Plan or zoning of the property, or at least substantially developed according to the General Plan or zoning. To be considered substantially developed, at least ninety-five percent of the contiguous land area must be committed or developed to its ultimate use. Contiguous property does not include streets, railroad rights-of-way, or parcels held in fee title by a public utility or public agency containing above or below ground utilities such as gas pipelines, electric power transmission lines, or major water distribution pipelines.

County lands dedicated as a public facility or encumbered with an open space easement, or contiguous property within Morgan Hill's UGB committed to an ultimate land use such as a city park, developed school site, or private open space will also be considered as adjacent development. Open space lands which are owned in private must have a public open space easement recorded over the corresponding area. For scoring purposes, undeveloped property which by September 15th of the fiscal year the competition is held has received either final map approval, or tentative map and development agreement approval for projects with previously completed phase(s), or for which building permits have been issued, shall be considered to be developed property. The perimeter established for the complete (master-planned) project will be used to determine adjacency for every RDCS submittal. Where previously allocated phases of the same project have been developed or have received final map approval and are immediately adjacent to an otherwise undeveloped external boundary, that portion of the project's perimeter shall then be considered developed, provided the project is making satisfactory progress according to the approved development schedule (project is not in default).

The percentage of a property that is adjacent to development shall be that percentage of the combined length of the subject property lines which is determined to be contiguous to adjacent development as defined in this subsection. The subject property is defined as a single parcel or contiguous parcels of record on which the proposed project would be located and shall include that portion of the subject property designated for future development. A designated remainder parcel shall not be considered a portion of the subject property except where development on all or a portion of the remainder parcel is proposed as part of the current project application.

4. A proposed development which is a subsequent phase of a previously approved project that has been awarded allotments provides for the continuous extension of existing development.
 - a. A proposed development which is a subsequent or final phase of a previously allocated development and consists of forty dwelling units or less shall be

awarded one point. (one point)

- b. A continuing project will receive two points if one half of the units allocated for the fiscal year the competition is held have been issued building permits and on site improvements for those units have been completed by September 15, and all prior phases are under construction or completed (excluding customs) (two points); or

If a proposed development is a continuing project and does not have any allocations for the FY the competition is held, the project will receive two points if all previous phases (if any) are under construction.

- c. A continuing project will receive one point if twenty-five percent or more of the project has been awarded a building allotment and as of the next RDCS competition deadline, the project entitlements have been delayed due to extended environmental processing for completion of an Environmental Impact Report (EIR). The EIR process must be underway at time of application filing for the next RDCS competition.

Note: To qualify for any points under paragraph (B)(4), the proposed development at total build-out, shall not exceed the number of units proposed in the original development application from which the project had been awarded an initial building allotment, unless approved by the planning commission prior to the competition's application submission deadline. The number of units requested for each subsequent fiscal year shall be no more than twenty-five percent above any single highest year allotment for the proposed project to a maximum of forty units. The twenty-five percent or forty-unit limit includes any units already allocated to the project in that fiscal year as a result of a prior fiscal year competition. For subsection (B)(4)(a) and (B)(4)(b) above, all prior allotments must also have an approved development agreement and the project must be in compliance with said agreement. Applicants must provide a list of all previous fiscal year allotments.

5. Project master plan design is above average in terms of addressing internal street circulation and access requirements, appropriate transition of lot size and density within the development and with surrounding developments, and aggregation and use of common open space areas. (minus one, zero, one or two points)

Note: Project master plan determined to be only satisfactory with respect to the above items will be awarded zero points. A project will be awarded one point if no significant design flaws can be found, and the design gives strong consideration to the issues of circulation, access, density transitions, and the use of common open space. A project will be awarded an additional point if a preliminary RDCS review was completed prior to the competition and the project master plan incorporates fundamental changes as recommended by city staff. Projects that go through a preliminary RDCS review and require only very minor changes to improve the quality of the project master plan design will also receive an additional point for a two point award. If a project master plan has two or more significant design flaws, it will be considered below average and one point will be taken away. A design flaw would be something that, at the subdivision stage, staff would ask to be modified or not recommend for planning commission approval. Significant design flaws would basically require the redesign of the master plan. For scoring purposes, that portion of an on-going project awarded a building allotment prior to October 1, 1999, shall not be considered within the project master plan design, except where the inclusion of the earlier allocated phase(s) would result in a higher

overall score.

(Ord. 1839 N.S. § 1 (part), 2007; Ord. 1731 N.S. Exh. A (part), 2005; Ord. 1677 N.S. § 1 (part), 2004; Ord. 1575 N.S. § 4, 2002; Ord. 1517 N.S. § 4, 2001; Ord. 1486 N.S. §§ 5, 6, 2000; Ord. 1438 N.S. §§ 2, 3, 1999; Ord. 1404 N.S. § 5, 1998; Ord. 1346 N.S. §§ 3, 4, 1997; Ord. 1228 N.S. § 4, 1995; Ord. 1179 N.S. § 8, 1994; Ord. 1124 N.S. § 1 (part), 1993; Ord. 1034 N.S. § 1 (part), 1991)
(Ord. No. 1943 N.S., § 1(Exh. A), 6-24-2009; Ord. No. 2051 N.S., Exh. A, 8-22-2012)

18.78.240 Public facilities.

- A. The provision of needed public facilities such as critical linkages in the major street system, or other vital public facilities. (ten points)
 1. The public facilities which serve the Morgan Hill area can benefit by discriminate development which improves the existing systems. Many areas exist where improvements to the systems are needed. A proposed project should help alleviate the problem rather than aggravate it.
- B. Standards and Criteria. (Maximum ten points)
 1. A micro, small vertical mixed use, or affordable project will receive (three points) if it meets all standard requirements for design and construction of public facilities.
 2. Installs public facilities of sufficient size to service the proposed development and future developments without the need to install supplemental facilities.
 - a. Grids water mains into the existing water system. (two points)
 - b. Drainage concept is consistent with the City's storm drain system. (e.g., the city's storm drain master plan, local area storm drain system). (one point)
 - c. Storm drain lines that are to be maintained by the city will be constructed entirely within the paved area of the street (curb to curb), or in a location acceptable to the director of public works. (one point)
 - d. Storm drainage from the development is accommodated without the need for an on-site detention pond or open space retention areas, unless the on-site detention facility is appropriately located and sized so as to serve or coordinate with future area-wide or adjacent development. (up to two points)

Note 1. Applicants providing an oversized pond must supply information specifying how the pond sizing will address the area need and how other projects will be connected to the detention pond. The extra capacity provided must be stated in terms of the land area it can serve in acres and cubic feet. When the detention pond is not connected to other projects, the applicant must provide data satisfactory to the city's public works department demonstrating the detention pond's benefit to other off-site projects. This shall be in the form of an agreement letter included the application submittal. Over sizing must equal fifty percent of the project drainage area or ten acres, whichever is greater, to receive maximum points.

Note 2. Applicants who use a regional detention facility, a detention pond from another development, or a Santa Clara Valley Water District facility must supply an authorization/approval letter with their application.
 - e. Provides a pre-approved site within the project boundary for city municipal water well. (one point)
 - f. Provides public facility, off-site storm drainage improvements or pedestrian improvements from a city-approved list or improvements on or adjacent to the

project in excess of standard requirements, e.g., sewer, traffic control. In the downtown area, these improvements can include pedestrian amenities such as lighting, planters that function as seating, seating and railings to lean on, refuse and recycling bins, traffic calming features, contribution to a public art fund or provides public art of appropriate value approved through the city's library, culture and arts commission, or provides gateway features, consistent with the downtown plan. (maximum four points)

Note: Under this criterion, the applicant needs to explain how and why the offered public improvements exceed the city standards. Furthermore, the cost of the offered public improvements and dedication shall be equal to or greater than one thousand one hundred dollars per unit per point. Should the offered dedication and improvements be redundant to those offered under subsection (B)(3) of the Circulation Efficiency (CE) category, the value of the redundant improvements will be reduced by one thousand one hundred dollars per unit per point for each point awarded under subsection (B)(3) in the CE category. For example, if redundant improvements are valued at three thousand three hundred dollars per unit here, and two points were awarded for them in CE, then only one point would be awarded for them here. The improvements offered here and in the CE category also cannot be redundant of those improvements offered in subsection (B)(3)(a) of the schools category or (B)(4) of the livable communities category.

Emphasis will be placed on improvements on or adjacent to the project but consideration will also be given to projects that provide improvements within one mile beyond their project boundaries. (one - four points)

- g. Applicant will contribute one thousand, one hundred dollars per unit to the RDCCS Capital Improvements fund. YES __, or NO __ (Contingent commitments will not receive point). (one point)

Note: Proposed developments must be assigned a minimum passing score of five points under this category in order to qualify for building allotments.

Scoring for a multi-year/phased developments includes recognition all public facility improvements committed to be installed in the initial or previous phases of development (project completed to date vis-à-vis improvements completed to date). The initial or previous phase of development must also be in compliance with the development schedule approved for the project.

(Ord. 1839 N.S. § 1 (part), 2007; Ord. 1731 N.S. Exh. A (part), 2005; Ord. 1677 N.S. § 1 (part), 2004; Ord. 1575 N.S. §§ 5, 6, 7, 2002; Ord. 1517 N.S. § 5, 2001; Ord. 1438 N.S. § 4, 1999; Ord. 1346 N.S. § 5, 1997; Ord. 1228 N.S. § 5, 1995; Ord. 1179 N.S. § 9, 1994; Ord. 1124 N.S. § 1 (part), 1993; Ord. 1049 N.S. § 1, 1991; Ord. 1034 N.S. § 1 (part), 1991)

18.78.250 Parks and paths.

- A. Provision of parks, foot or bicycle paths, equestrian trails or pathways. (ten points)
 - 1. The Morgan Hill area has many natural amenities that should be made accessible to its residents. Access should be made readily available by using a variety of methods, including foot and bicycle paths, and equestrian trails. By providing the opportunities to experience the areas natural amenities, a healthier attitude towards caring for and preserving the environment will be encouraged.
- B. Standards and Criteria.

1. In lieu of dedicating land, projects of fifty units or less which are not providing parks are required to pay a fee to the city equal to the value of the land prescribed for dedication. The amount of park land dedication or in lieu fee must be consistent with the requirements contained in [Chapter 17.28](#) of this code. For the land dedication to apply, the property must be deeded to the city for public park purposes. Not applicable to passive open space or landscape buffer areas deeded to a homeowners association. (four points for projects of fifty units or less which are not providing parks)
2. Provides privately owned and maintained on-site recreational amenities which are of greater value and utility from the following list. Projects of fifty or fewer units will receive credit for a maximum of one amenity from the one point category list. Projects more than fifty units will only receive credit for amenities provided from the two point or higher point category lists. (up to four points)

Site Recreation Amenities

One point amenities:

Shuffleboard.

Horseshoes.

Bowling green w/artificial turf.

Passive recreation area and/or gardens.

Passive water feature (e.g. fountain).

Picnic/barbeque area.

Two point amenities:

Cabana or shade trellis area.

Two picnic/barbeque areas.

Volleyball court.

Outdoor racquetball/handball tilt-up wall.

Artificial turf areas.

Sauna.

Tree grove as approved by the community development director or designated staff.

Community garden plots with water service.

½ court basketball (one hoop).

Bridle paths.

Bocce ball.

Artificial turf putting green.

Three point amenities:

Softball field.

Sports court.

Restroom area.

½ scale soccer field.

Tot lots (age appropriate play equipment/minimum three activities).

Basketball court (two hoops).

Jacuzzi and separate child wading pool (for projects between twenty and forty-nine units zoned R-2, R-3 or higher density development).

Tennis court.

Recreation hall.

Exercise room.

Four point amenities:

Swimming pool (for projects of fifty or more units zoned R-2, R-3 or higher density development).

Points will also be awarded for any proposed amenity found by the planning commission to provide recreation or meet the needs of the project residents to a level similar to provided by the above. Point values in the above chart are based on a project fifty units or less in size. For projects of fifty-one to one hundred units, divide the above values by two. For projects of one hundred to one hundred fifty, divide the above point values by three, etc.

3. Provides Class I bicycle pathways or equestrian trails along the project frontage, or provides pedestrian paths consistent with the city's trails master plan or downtown plan in accordance with the overall community-wide and/or county-wide bicycle master plans. In areas where a Class I bike path is not required, the project provides necessary street improvements and striping for Class II bike lanes. The project must provide at least one quarter mile of Class II bike lane improvements for each ten dwelling units within the project. (one point)
4. Projects located in the downtown area may be awarded up to one point based on the following criteria:
 - a. The project provides ground floor mid block pedestrian connections through large buildings that provide access to public or private open space areas and plazas. For the criterion to apply, the pedestrian connection must be continuous and unrestricted during business hours. (one point)
5. For projects of more than one hundred fifty units, provides an improved on-site public neighborhood park at a location accessible from an adjacent public street or provides an off-site public neighborhood park at a location approved by the city, with a written agreement prior to the competition that the city will accept the dedication offer and the amenities (park improvements). (four points.) Projects will receive three points for land only dedications with fees equal to the improvement cost for future park improvements by the city. (three points)
6. In addition to payment of standard park fees, applicant will pay the lesser of double the required in lieu park fees or one thousand one hundred dollars per point up to three thousand three hundred dollars per unit (up to three points); or

7. Applicant (projects of fifty units or less who do not provide a park) will pay the lesser of triple the required in lieu park fees or one thousand one hundred dollars per point up to six thousand six hundred dollars per unit. (up to six points)
8. For projects of less than one hundred fifty units, or projects greater than one hundred fifty units where the city does not accept the written dedication offer under criterion B5 above, public or private parks provided by the project exceed the dedicated land requirements stated in [Chapter 17.28](#) of the Morgan Hill Municipal Code. (one point if exceed the requirement by twenty percent, two points if exceed by thirty percent, or three points if exceed by forty percent, or four points if exceeds by fifty percent).

Note: The number of recreational amenities required pursuant to Section 18.18.060 shall be based on the total number of dwelling units within the project, including secondary dwelling units as defined in [Section 18.04.164](#) of this title.

Scoring for a multi-year/phased development includes recognition all recreational amenities provided in the initial or previous phases of development (amenities provided to date vis-à-vis project completed to date). The initial phase of development must also be in compliance with the development schedule approved for the project.

(Ord. 1839 N.S. § 1 (part), 2007; Ord. 1731 N.S. Exh. A (part), 2005; Ord. 1677 N.S. § 1 (part), 2004; Ord. 1575 N.S. § 8, 2002; Ord. 1517 N.S. §§ 6, 7 and 8, 2001; Ord. 1486 N.S. §§ 7, 8, 2000; Ord. 1438 N.S. §§ 5, 6, 1999; Ord. 1404 N.S. § 6, 1998; Ord. 1346 N.S. § 6, 1997; Ord. 1228 N.S. § 6, 1995; Ord. 1179 N.S. § 10, 1994; Ord. 1124 N.S. § 1 (part), 1993; Ord. 1034 N.S. § 1 (part), 1991)

(Ord. No. 1935 N.S., § 4(Exh. B), 6-3-2009; Ord. No. 1943 N.S., § 1(Exh. A), 6-24-2009; Ord. No. 1980 N.S., § 4, 6-2-2010)

18.78.260 Housing needs.

- A. Provision of units to meet the city's need for low and moderate income and elderly housing and the extent to which such provision meets the goals of the housing element of the general plan, including the distribution of housing types to provide neighborhoods of ethnic and economic diversity. (fifteen points)
 1. The city has an obligation to provide adequate housing for all segments of the population in a variety of lot sizes and dwelling types. It must do this in a fashion which creates diversified neighborhood environments and income groups, avoiding concentrations of any single income group in one particular residential neighborhood. A neighborhood mix of ethnic and economic diversity, as required by the housing element of the general plan will therefore be encouraged.
- B. Standards and Criteria.
 1. Provides affordable housing units for households ranging from very low to moderate income. Most units sold or rented at below market rates will receive increased density.
 2. The project provides fifteen percent of the total dwelling units with secondary (granny) units. In lieu of secondary dwelling units, projects in a R-2 district provide a minimum of ten percent and less than twenty-five percent of the overall units as single detached dwellings. (two points)

Note: To be counted as a secondary (granny) unit, the secondary dwelling must be constructed with complete, independent living accommodations including a full kitchen as defined in [Section 18.04.237](#) of the municipal code.

3. The project will receive six points if it chooses to pay the standard housing mitigation fee computed at eight percent of the total project.
4. Affordable Units for Sale or Rent:

- a. Projects are eligible to receive points in this category based on the percent and level of affordability of below market rate units built within the project. When in the process of determining the number of below market rate units required, there occurs a fraction of a unit, any fraction less than one-half shall be paid as a corresponding fraction or percentage of the per unit cost of the standard housing mitigation fee. In phased developments, developer may carry the fractional share forward into succeeding phases until the fraction reaches one-half or higher. Any fraction of one-half or greater shall be deemed a requirement for one additional below market rate unit. The developer however, may continue to carry the partial credit forward into the next phase(s) of the overall development. Refer to the following charts to compute points.

Note: For projects that commit to provide a certain percentage of total units as affordable below market rate units, any fractions equal to or greater than one-half shall be rounded up to the next whole number. Additionally, whenever the project's individual commitment of low and median/moderate income units combines to equal one-half or greater, the project shall be required to provide one additional median income unit in the final phase of the development.

Market Rate for Sale Completion

Percentage of Median/Moderate Income (of appropriate household size) for Sales Price Determination

Points	Commitment	R-3 Condominium	R-2 and R-3 Townhouse Units	R-2 SFD and R-1 7000	R-1 9000 and above lot size
(a) 13 Points	4% Low	70%	73%	76%	80%
	4% Med**	90%	100%	110%	120%
(b) 14 points	6% Low	70%*	73%*	76%*	80%*
	2% Med**	90%*	100%*	110%*	120%*
(c) 15 points	8% Low	65%	70%	75%	80%

* BMR sales price determination is based on median income and household size. All BMR units, including Moderate Income BMR's are deed restricted. Final BMR sales price is based on verification of property zoning and housing types.

** In lieu of constructing the median income BMR(s) projects receiving allocations for Fiscal Year 2013—2014 can pay an in lieu fee for median income units required to be constructed in the project phase utilizing the FY 2013—2014 allocations.

Affordable For Sale Competition

Percent of Dwelling Units by Income Category for the affordable housing share within the Affordable Housing Competition (does not include up to 25% market rate share)

Points	Low Income	Median Income	Moderate Income
15	40%	30%	30%
<u>11</u>	15%	45%	40%
7		50%	50%

For projects that commit to provide a low and median income affordable commitment, in the final phase, where the fractional share of the low and median income units combine to equal one-half or above, the project shall be required to provide one additional median income unit as fulfillment of the project's overall affordable housing commitment.

Market Rate Units for Rent:

Points	Percent of BMR Units		
	Extremely Low Income	Very Low Income	Low Income
15	2%	6%	0
<u>11</u>	0	4%	4%
7	0	0	8%

Affordable Competition Units for Rent:

Applicable to non-profit agency sponsored project (does not include up to twenty-five percent market rate rental share)

Points	Percent of Affordable Units		
	Extremely Low Income	Very Low Income	Low Income
15	8%	50%	40%
<u>11</u>	4%	40%	55%
7	0	30%	70%

- b. In lieu of BMR commitment, a downtown area project may be awarded points for overall housing affordability as follow:
 - i. One hundred percent of the units are affordable to less than moderate income households (eight points), or
 - ii. Seventy-five percent of the units are affordable to less than moderate income households and twenty-five percent of the units are affordable to less than median income households. (ten points)
- c. In addition to points awarded under subsection (B)(3) above, a micro, small, or any project having all lots in excess of twenty thousand square feet, will receive six points if it chooses to pay double the standard housing mitigation fee

computed at eight percent of the total project (including replacement units). Eight percent of overall project units times the standard housing mitigation fee amount equals the total fee amount, e.g. eight percent of 60 units = $4.8 \times \$150,000 = \$720,000$. Example only-the standard housing fee is the amount in effect for the competition.]

5. A project may also be awarded thirteen points if at least ten percent of the dwellings are affordable at below market rates and the BMR units are constructed in a joint venture with a non-profit builder. The following criteria shall apply to the joint venture development:
 - a. A letter of intent signed by both parties must be included with the RDCS application.
 - b. The homes are to be built by the non-profit agency through a self help building program or other applicable program approved by the city.
 - c. The project must provide an area for a minimum of eight BMR units as part of the joint venture agreement. If ten percent of the project is less than eight dwelling units, allocations above ten percent of the project may be drawn from the affordable allotment set-aside if available, to achieve the eight unit minimum.
 - d. The price range and target income of the buyers shall be determined and approved by the city and non-profit agency prior to the RDCS application.
 - e. The site and architectural plans for the affordable units shall be shown on the plans and shall be considered part of the market rate application.
6. A project not receiving six points under subsection (B)(3) above may also be awarded thirteen points where all lots in the proposed development are twelve thousand square feet and above in size, the developer commits to pay double the standard housing mitigation fee, and provides a minimum of twenty percent of the overall dwellings with secondary dwelling (granny) units.

Note: If the applicant and non-profit agency are unable to obtain the necessary funding, allotments, or encounter other obstacles and are unable to produce the affordable housing through the joint venture agreement; then the applicant will be required to choose one of the other options to achieve thirteen points under subsection (B)(4) in this category. Any unused affordable building allotment transfer shall be returned to the affordable allotment set-aside category.

Note: Proposed developments must be assigned a minimum passing score of eight points under this category in order to qualify for building allotments.

(Ord. 1887 N.S. § 1, 2008; Ord. 1839 N.S. § 1 (part), 2007; Ord. 1731 N.S. Exh. A (part), 2005; Ord. 1677 N.S. § 1 (part), 2004; Ord. 1575 N.S. §§ 9, 10, 11, 2002; Ord. 1517 N.S. §§ 9 and 10, 2001; Ord. 1486 N.S. § 9, 2000; Ord. 1438 N.S. § 7, 1999; Ord. 1404 N.S. § 7, 1998; Ord. 1346 N.S. §§ 7, 8, 1997; Ord. 1323 N.S. § 38, 1997; Ord. 1228 N.S. §§ 7, 8, 1995; Ord. 1179 N.S. § 11, 1994; Ord. 1124 N.S. § 1 (part), 1993; Ord. 1034 N.S. § 1 (part), 1991)
(Ord. No. 1943 N.S., § 1(Exh. A), 6-24-2009; Ord. No. 1980 N.S., § 4, 6-2-2010; Ord. No. 2017 N.S., 7-27-2011; Ord. No. 2051 N.S., Exh. A, 8-22-2012)

18.78.270 Housing types.

- A. The extent to which the proposed development itself consists of a diversity of housing types to meet the goals of the housing element of the general plan (fifteen points).
 1. In order to develop residential neighborhoods which have a mix of housing types, new residential construction should consider the existing composition of the neighborhood and plan its housing design accordingly.

B. Standards and Criteria.

1. Provides for a diversity of housing types:
 - a. Utilizes a mix of the various housing categories to provide housing diversity as follows by housing type* (a maximum of seven points, two points per housing type, excepting the fifteen percent single story housing type which is worth three points).

Note: Rental projects will receive seven points. Owner-occupied single-family attached, mixed-use CL-R and CC-R zoned projects and multi-family R2 and R3 and R4 zoned projects will receive five points for one housing type, and seven points for two or more housing types.

* Housing Types are defined as follows:

- Single-family detached
- Single-family attached (includes one and two unit condominium buildings) or units on R-1 (4,500) lots
- Vertical mixed use; multi-family rental or stacked condominium or condominium units in buildings containing three or more units
- Custom lots
- Mobile homes
- Secondary dwelling units (Granny units)
- Single story dwelling units (must represent at least fifteen percent of the total dwelling units)

For the above determination, the number of units for a particular housing type when divided by the total number of units in the project, must represent at least ten percent of the total number of housing units in the development (fifteen percent for single story units). The ten percent requirement would be in addition to any housing type used for below market rate (BMR) units. Single story BMR units may be counted toward the fifteen percent overall requirement for single story units.

Note: The percentage requirements stated above are absolute figures. Rounding to the nearest whole number is not permitted. A minimum of ten percent (fifteen for single story units) is required, i.e. rounding up to get ten percent is not allowed.

- b. Over and above the BMR units committed in this section, the project provides an additional ten percent detached units in an R-2 project or an additional ten percent attached units or an additional ten percent R-1 (4,500) lots in an R-1 project or an additional ten percent ownership (e.g., townhouse units) in an R-3 project. (two points maximum)

Projects that have both R-2 and R-1 zoning designations can receive one point for providing an additional ten percent detached units in the R-2 project area and/or one point for providing an additional ten percent attached units in an R-1 portion of the project.

Note: The ten percent determination will be based on the overall project. For ongoing projects, this criterion will be applied to the remaining phases only. The percentage requirement stated above shall be an absolute figure, rounding to the nearest whole number is not permitted. A minimum of ten percent is

required, i.e. rounding up to get ten percent is not allowed. This criterion only applies to for sale projects.

2. Provides for an economic diversity within the project.
 - a. The proposed project would augment the existing housing stock by providing housing which would be affordable under the income categories described below. A maximum of two points (or four points if for rent) may be awarded to projects which reserve a portion of the total units (see table below) as affordable to very low income households within one hundred percent rental projects or low income (ownership units) in other projects.

Note. A micro or small will receive two points if it chooses to pay the standard housing mitigation fee computed at ten percent of the total project (including replacement units), or four points if it chooses to pay double the housing mitigation fee. Any project where all lots are in excess of twelve thousand square feet, will receive two points if it chooses to pay the standard housing mitigation fee.

For Sale Projects

Points	10% BMR Commitment: Provides for percentage of affordable units	
	LOW	MEDIAN/ MODERATE**
4*		
2	10	
2	8	2
1.5	5	5

* Applicable to seventy-five percent affordable/ up to twenty-five percent market rate projects.

** Moderate BMR units must be on appropriately sized lots (> four thousand square feet)

Note: If the applicant and non-profit agency are unable to obtain the necessary funding, allotments, or encounter other obstacles and are unable to produce the affordable housing through the joint venture agreement; then the applicant will be required to choose one of the other options to achieve the two points in this (for sale) category. Any unused affordable building allotment transfer shall be returned to the affordable allotment set-aside category.

For Rent Projects

Points	Percent of Units		
	Extremely Low Income	Very Low Income	Low Income
4	2%	8%	0
4	0	5%	10%
3	0	5%	5%
2	0	0	10%

3. A project may be awarded points for housing variation under one of the following criteria:
 - a. For single-family/ownership projects, the proposed project provides for a variation of housing sizes within the project. The proposed project provides at least a fifty percent variation in house size from the smallest to largest floor plan and each house size represents at least ten percent of the total units (three points). For purposes of making the above determination, there must be at least three different floor plans and a one hundred twenty square foot difference between the sizes of each floor plan where the floor plans do not exceed one thousand five hundred square feet (less than one hundred twenty square feet difference will be aggregated as one floor plan). Where the floor plans exceed one thousand five hundred square feet, there must be a two hundred square foot difference between the sizes of each floor plan (less than two hundred square feet difference will be aggregated as one floor plan).
 - b. For multi-family projects, and seventy-five percent affordable and up to twenty-five percent market rate ownership projects, the variation will be based on number of bedrooms. A project which provides one bedroom units only, will receive one point. A project which provides a mix of one and two bedroom units or two bedroom units only, will receive two points. A project which provides dwelling units with a mix of one, two and three bedroom units or dwelling units with three or more bedrooms only within the development, will receive three points. Each bedroom category must represent at least ten percent of the total units. Affordable ownership projects must provide a minimum of three floor plans to be eligible for points under this criterion.
 - c. For small vertical mixed-use and downtown area projects, the variation will be based on number of studio, one and two bedroom units. A project which provides a mix of studio, one bedroom and two bedroom units will receive three points. A project which provides a mix of one and two bedroom units will receive two points. A project which provides dwelling units with two bedrooms only within the development, will receive one point. Each bedroom category must represent at least twenty percent of the total units.

Note: Three bedroom units are allowed as part of the remaining percentage of the total dwelling units and will not affect the points given under this criterion.

Note: BMR units may not be used when determining housing size variations
 - d. For R-1 (4,500) zone projects, the variation will be based on the number of bedrooms. A project which provides a mix of units with two bedrooms and three bedroom units will receive two points. A project with four bedroom units or an additional five percent single-story units will receive three points.
4. A project providing at least twenty-five percent of the dwellings as visitability accessible units will be awarded one point. Visitability units are accessible dwellings that have one zero-step entrance on an accessible route; all main floor interiors, including bathrooms, with thirty-two inches of clear passage space; and at least a half bath on the main floor usable for a person in a wheelchair. (one point)

(Ord. 1887 N.S. § 1, 2008; Ord. 1839 N.S. § 1 (part), 2007; Ord. 1731 N.S. Exh. A (part), 2005; Ord. 1677 N.S. § 1 (part), 2004; Ord. 1575 N.S. §§ 12, 13, 2002; Ord. 1517 N.S. §§ 11 and 12, 2001; Ord. 1486 N.S. § 10, 2000; Ord.

1438 N.S. §§ 8, 9, 1999; Ord. 1404 N.S. § 8, 1998; Ord. 1346 N.S. §§ 9—11, 1997; Ord. 1228 N.S. § 8, 1995; Ord. 1179 N.S. §§ 12, 13, 1994; Ord. 1124 N.S. § 1 (part), 1993; Ord. 1034 N.S. § 1 (part), 1991)
(Ord. No. 1943 N.S., § 1(Exh. A), 6-24-2009; Ord. No. 1992 N.S., Exh. H, 10-6-2010; Ord. No. 2051 N.S., Exh. A, 8-22-2012)

18.78.280 Quality of construction standards.

- A. Architectural design quality as indicated by the quality of construction and by the architectural elevations of the proposed buildings, judged in terms of architectural style, size and height. (fifteen points)
 - 1. The proposed project should create high-quality buildings that are responsive to the needs of its users and the environment, while also accomplishing it in an appealing and attractive manner. The overall project design should be compatible and harmonious with existing adjacent residential neighborhoods and land uses, while still maintaining its own special character.
- B. Standards and Criteria.
 - 1. Over and above commitments made in B.1.a above or in the Natural and Environmental category, the proposed development will install the following:
 - a. Full exterior OSB/Plywood wrap with window/door flashing. (four points)
 - b. Five-eighths-inch Type "X" sheetrock in all interior walls. (four points)
 - c. Mud room from garage into home on thirty percent of homes. (three points)
 - d. 2-220 Volt electric car charging stations, the garage. (three points)
 - e. All plumbing waste lines from second story are installed with approved noise dampening system. (two points)
 - f. Recycle center built in to cabinet layout with pull outs for bins. (two points)
 - g. Noncombustible siding and roofing materials except for window, fascia and door trim on all homes. (two points)
 - h. Dual zoned (dual units) forced air heating on all two-story homes or dual zone design with dampers on single story homes. (two points)
 - i. R-13 sound attenuated insulation in all bathroom interior walls. (one point)
 - j. All appliances are Energy Star rated. (one point)
 - k. Garage door opener on all garage doors with two openers. (one-half point)

(Ord. 1887 N.S. § 1, 2008; Ord. 1839 N.S. § 1, Exh. A (part), 2007; Ord. 1731 N.S. Exh. A (part), 2005; Ord. 1677 N.S. § 1 (part), 2004; Ord. 1575 N.S. §§ 14, 15, 16, 17, 18, 2002; Ord. 1517 N.S. §§ 13 and 14, 2001; Ord. 1486 N.S. § 11, 2000; Ord. 1438 N.S. § 10, 1997; Ord. 1404 N.S. § 9, 1998; Ord. 1346 N.S. § 12, 1997; Ord. 1228 N.S. § 9, 1995; Ord. 1124 N.S. § 1 (part), 1993; Ord. 1034 N.S. § 1 (part), 1991)

(Ord. No. 1943 N.S., § 1(Exh. A), 6-24-2009; Ord. No. 1980 N.S., § 4, 6-2-2010; Ord. No. 2017 N.S., 7-27-2011; Ord. No. 2051 N.S., Exh. A, 8-22-2012)

18.78.290 Lot layout and orientation.

- A. Site design quality as indicated by lot layout, orientation of the units on the lots and similar site design consideration. (fifteen points)
 - 1. The overall project's site design quality is largely dependent upon the layout of the individual lots. Variations in lot sizes and configurations must take place to accommodate changes in natural terrain and street design, although this is not to be construed as meaning that areas of consistent terrain need not have lot variations. The variations in lot size, shape and layout would encourage a corresponding variation in house designs and orientations. Site design will incorporate the utilization of the sun and wind to the greatest extent possible for heating and cooling purposes.

B. Standards and Criteria.

1. Provides good site design considerations in all lot layouts.
 - a. In context of overall project avoids excessively deep or narrow lots. The project also must provide side yards at least twenty percent in excess of the minimum required to avoid crowding and to enhance spatial relationships. For projects that are zoned R-1 (4,500) the project must provide one of the side yard setbacks two feet in excess of the minimum setback for at least forty percent of the depth of the unit.

 Note: Side yard setbacks that are twenty percent in excess of the minimum required by the zoning district that most closely matches the proposed lot size applies to structures within the principal building setback, and exceptions may apply to detached garages and accessory buildings.
 - b. Provides building separations in apartment or condominium developments that are at least twenty percent in excess of minimum code requirements. (one point)
 - c. Arranges buildings, access-ways and locates parking areas and open space to minimize the use of sound walls next to the freeway, railroad and arterial or collector streets. (one point)
 - d. Avoids creating lots which require driveways greater than one hundred fifty feet in length for access. (one point)
 - e. A sufficient transition in lot sizes, or building sizes in R-3 and vertical mixed use developments, is proposed in the site plan design to allow compatibility between existing and proposed neighborhoods. (one point)
 - f. Over-all Excellence of Lot Layout. Layouts deemed to be average will receive zero points, above average layouts will receive one point and superior layouts will receive two points.

For scoring purposes points will be assigned as follows:

Average Project. A project requiring two or more major design changes, or which has four or more minor problems. (zero points)

Above Average Project. A project requiring one major design change, or which has three minor problems. (one point)

Superior Project. A project requiring no major changes and which has two or less minor problems. (two points)

- g. Provides harmonious use of exterior building materials and varying front elevations with low repeat factors. A reverse floor plan does not count as a separate elevation. An elevation to be considered different must include significant modifications to the exterior appearance of the structure.
 - i. Floor plan & elevation repeats 0—3.5 times: (one point)

For single family detached buildings, repeat factor is the total number of building lots divided by: the number of floor plans multiplied by the number of alternate elevations for each plan (i.e.: repeat factor = number of building lots/(floor plans)*elevations).

For single-family attached or multi-family buildings, repeat factor is the number of structures divided by: the number of different footprints times the number of alternate elevations for each footprint (must have a

minimum of two elevations within the project).

For projects where all dwelling units are contained within a single building, the project will be scored as having no repeat elevations provided that each side of the building provides architectural interest consistent with the design review ordinance (Chapter 18.74 of the Municipal Code) and Design Standards and Guidelines Handbook and is designed consistent with requirements in the city's downtown plan (downtown projects only).

2. Provides street design which complements lot layout and building orientation:
 - a. Locates streets and arranges units to provide park/open space area that is aggregated into large meaningful area(s) that are conveniently located within the development (one point);
 - b. Locates streets, design lots and arranges units to enhance neighborhood security by arranging a minimum of seventy-five percent of the units so that entrances are visible from the public right-of-way or private circulation areas and pedestrian walkways. An additional point may be awarded for other security measures. (up to two points)
3. Provides a variety of setbacks which complements the overall site design.
 - a. A minimum five-foot front setback variation is provided between adjoining units for single-family dwellings and four-foot setback variation is provided between adjoining buildings for multifamily developments or a minimum four-foot setback variation is provided on one side between adjoining units in R-1 (4,500) zone projects.
 - b. A minimum five-foot rear yard setback variation for single-family dwellings and four-foot rear setback variation for multifamily dwellings is provided between adjoining units or a minimum four-foot rear yard variation is provided on one side between adjoining units in R-1 (4,500) zone projects.
 - c. The proposed project provides at least a four foot variation in standard lot widths (excluding cul-de-sac lots) and each lot width represents at least ten percent of the total lots. For purposes of making the above determination, there must be at least three different standard lot widths and at least a four foot difference in the width of each standard lot. (one point)
 - d. Uses garage placement to provide lot variation. At least twenty-five percent of units have side-loading, detached, rear garages, or two car garages with tandem parking space to accommodate a third vehicle inside the garage. (one point when twenty-five percent of the units have garage orientation as stated above; two points when fifty percent of the units have garage orientation as stated above). Up to twenty percent of the units committed to side-loading, detached, rear or tandem garages may be exchanged for visitability units.

Multifamily developments may satisfy this criterion by locating garages, carports, and parking spaces at the side or rear of buildings at locations not visible from the public right-of-way. Projects zoned R-1 (4,500) or R-1 (7,000) may satisfy this criterion by when a minimum of fifty percent of the units provide a garage door that is set back a minimum of three feet beyond the front building footprint and includes architectural treatment of the face of garage (e.g. trellis, balcony, archway, two-foot recess of the door, etc.) (Up to two points)

4. Uses lot layout and design techniques that reduce noise. Such techniques where appropriate include increased setbacks, significant landscape buffer areas, sound

insulation board in the building construction, placement of air conditioning units away from property lines and side yard areas to minimize noise impacts to adjoining dwellings, etc. (up to two points)

5. For projects in the downtown area, building setback areas above the second story are articulated with design elements that provide visual interest, such as use of outdoor decks and balconies. (one point)
6. In the downtown area, the project addresses building to building variation in the façade and building space above through use of architectural details such as bay windows, decorative belt courses, moldings around windows and planter boxes, etc., that span from one building to another. (one point)
7. Downtown area projects will receive one point for providing shared parking (used jointly by residential and non-residential uses) and/or rear parking lots. (one point)

(Ord. 1887 N.S. § 1, 2008; Ord. 1839 N.S. § 1 (part), 2007; Ord. 1731 N.S. Exh. A (part), 2005; Ord. 1677 N.S. § 1 (part), 2004; Ord. 1575 N.S. § 21, 2002; Ord. 1517 N.S. § 17, 2001; Ord. 1486 N.S. §§ 13, 14, 2000; Ord. 1438 N.S. § 12, 1999; Ord. 1346 N.S. § 14, 1997; Ord. 1228 N.S. § 11, 1995; Ord. 1179 N.S. § 14, 1994; Ord. 1124 N.S. § 1 (part), 1993; Ord. 1034 N.S. § 1 (part), 1991)

(Ord. No. 1943 N.S., § 1(Exh. A), 6-24-2009; Ord. No. 1992 N.S., Exh. H, 10-6-2010; Ord. No. 2017 N.S., 7-27-2011; Ord. No. 2051 N.S., Exh. A, 8-22-2012)

18.78.300 Circulation efficiency.

- A. Site and architectural design quality as indicated by the arrangement of the site for efficiency of circulation, on-site and off-site traffic safety and privacy. (15 points)

1. An efficient circulation system is one which accommodates various regular transportation modes (walking, biking, private automobile and public transit) in a safe and unified manner. Future residential areas should incorporate design elements whenever possible to make these forms of transportation more convenient and safe for the users.

- B. Standards and Criteria.

Note: Project scoring in this section shall be based on the overall project master plan and shall include improvements completed in previous phases of the same development.

1. Streets, access ways and parking are designed for safe and efficient circulation.
 - a. Provides for the future extension of streets for proper access or circulation to adjacent properties by providing one or more stubs or other improvement internal to the project. The future street extension(s) for arterial or collector streets must be consistent with the General Plan or other adopted circulation plans. Projects may also receive points through the avoidance of undesirable traffic situations such as fast thru traffic, double frontages, and utility easements in rear or side yards of private property, or developable land locked property. (up to two points)
 - b. Provides for the future extension of drive aisles, or connections to shared access drives or adjacent parking lots. (one point)
 - c. Interior streets and/or drive aisles are designed to meet all city safety and parking standards and allow for a looping pattern of circulation. (one point)
 - d. Eliminates existing stub or substandard streets. Frontage improvements will not apply to this criterion unless the improvements occur along an arterial or the project completes full width street improvements along the project frontage. (up to two points)
 - e. Avoids short blocks between existing and/or proposed streets. A short block is considered to be less than two hundred fifty-two feet from centerline to centerline

of streets. Within a project, an entry aisle less than two hundred fifty-two feet from the entry is acceptable. This criterion is not applicable where a driveway and/or drive aisles and curb cuts are used to provide access to the entire project site. (one point)

Note: Should a project propose a short block due to site constraints such as parcel size, the project will need to go through the preliminary RDCS review process prior to the competition and receive written acknowledgement from city staff that the creation of a short block is unavoidable and acceptable. One point may be awarded under this process as an exception.

- f. Provides a minimum twenty-foot clear view back-out distance between enclosed garage space and the adjacent public street and a minimum three-foot distance from a drive aisle or alley way. (one point)
- g. When possible, access to the project is provided from at least two separate streets. If access to separate streets is not possible, there must be a minimum of two hundred feet between access points to the project on the same street. (one point)
- h. Project provides circulation to facilitate emergency response and patrol as determined by the fire chief and police chief. Off-set intersections are avoided. The project shall include specific information to provide for turnarounds and secondary access proposal for phased projects. (one point)
- i. Project provides public parking in the Downtown Area consistent with the Downtown Specific Plan (i.e., at mid block areas between E. Second and E. Third and E. Third and E. Fourth Streets, on the east side of Depot Street, etc.). (up to two points)
- j. Converts existing city street lights to energy efficient LED lights at a ratio of one street light conversion per dwelling unit. For the criterion to apply, the commitment shall apply to the conversion of existing street lights on or adjacent to the project frontage, or in an earlier phase of the current project. (one point)
- k. In R-3 and Downtown Area projects, converts existing city street lights to LED lights at a ratio of two street light conversions per dwelling units. (two points)
- 2. Promotes the privacy of residential neighborhoods.
 - a. Internal project circulation is designed for use primarily by local residents. (one point)
- 3. Provides for dedication and/or improvement of extensions to existing streets and shared parking lots outside of the project boundaries. The cost of the offered dedication and public improvements shall be equal to or greater than one thousand one hundred dollars per unit per point. Should the offered dedication and improvements be redundant to those made under subsection (2)(f) of the Public Facilities (PF) section, points will be awarded here first and then any excess applied to the PF section. For example, if one thousand five hundred dollars per unit of improvements were recorded in this section and in PF, one point would be awarded here and four hundred dollars per unit would be available to add to any non-redundant improvements made under the PF category, under subsection (B)(3)(a) of the schools category or under subsection (B)(4) of the livable communities category.

Projects which offer to complete adjacent or nearby off-site public facility improvements which were committed to be installed by another project under a previously approved application will not receive points for the same commitment. (up to two points)

4. In R-3 and higher density mixed use projects, the proposed development minimizes conflicting back out movements by using single loading streets or drive aisles to access individual parking spaces. (one point)
5. In R-3 and higher density mixed use projects, interior parks and recreation amenities are located away from parking lots and circulation aisles. (one point)
6. Projects located in the downtown area may be awarded up to four points based on the following criteria:
 - a. The project provides ground floor mid-block pedestrian connections through large buildings. For the criterion to apply, the pedestrian connection must be continuous and unrestricted during business hours (one point);
 - b. The main project entries are oriented directly to the public streets to encourage connections through the existing network of sidewalks (one point);
 - c. The project closes gaps in the pedestrian and bicycle network through replacement or extension of sidewalks, pathways or bike lanes beyond the project frontage (one point);
 - d. The project provides bicycle parking with racks at convenient locations near building entrances and bus stops. (one point)

Note: For subsection (B)(3) above, emphasis will be placed on improvements for dedicated extensions of existing streets within one mile of the project.

Proposed developments must be assigned a minimum passing score of seven points, or a minimum of five points for downtown area projects under this category in order to qualify for building allotments.

(Ord. 1839 N.S. § 1 (part), 2007; Ord. 1731 N.S. Exh. A (part), 2005; Ord. 1677 N.S. § 1 (part), 2004; Ord. 1575 N.S. § 21, 2002; Ord. 1517 N.S. § 17, 2001; Ord. 1486 N.S. §§ 13 & 14, 2000; Ord. 1438 N.S. § 12, 1999; Ord. 1346 N.S. § 14, 1997; Ord. 1228 N.S. § 11, 1995; Ord. 1179 N.S. § 14, 1994; Ord. 1124 N.S. § 1 (part), 1993; Ord. 1034 N.S. § 1 (part), 1991
(Ord. No. 1943 N.S., § 1(Exh. A), 6-24-2009; Ord. No. 2051 N.S., Exh. A, 8-22-2012)

18.78.310 Safety and security.

- A. Site and architectural design quality as indicated by the amount of private safety and security provided in the design of the individual structures. (ten points)
 1. Residential structures should create the feeling of comfort and peace of mind by using design and materials that increase safety and security. The lighting, glazing and positioning of non-private or semi-private areas and access areas must facilitate their natural surveillance by residents and formal authorities.
- B. Standards and Criteria.
 1. Enhances safety and security as follows:
 - a. Install a fire proof safe that is bolted to the floor or in another suitable location. (one point)
 - b. Provides a first aid kit with a poison control document to be installed in the kitchen area of the home. (one-half point)
 - c. Any other fire protection device or construction technique approved by the fire chief not already required according to the California Fire Code. (one-half point)
 - d. Provide outdoor lighting on all units/buildings to meet all police department

specifications. (one-half point)

- e. Install illuminated address numbers for each unit and painted reflective curb numbers where possible. (one point)
- f. Any other intrusion protection device or construction technique approved by the police chief. (one-half point)
- g. All large common areas and parks will be provided with on-site (or modified electrolier) lighting to a minimum 1.5 footcandles. (two points)
- h. Bike lockers will be provided for at least fifty percent of all second story units (multi-family projects only). (two points)

Note: Application must stipulate that the reflective painted curb addresses will be maintained by a homeowners association. A small or micro project will receive one point without the requirement for painted curb addresses.

- 2. Reserved.
- 3. Installation of an intrusion, fire alarm and heat detector system to be monitored by a central station, or to include auto dialer which meets city ordinance. For multi-family projects, points will be awarded for a fire alarm system without central monitoring and no intrusion system. (two points; three points when the developer includes a one-year monitoring contract with the home purchase and commits to deliver to the homeowner a city specific responsible listing card that the city police department can keep on file)
- 4. Lockable hardware on all side yard gates. (one-half point)
- 5. Neighborhood Emergency Preparedness Program administered through a homeowners association or central property management. (one point)
- 6. The developer shall include provisions in the Convents, Conditions and Restrictions (CC&R's) of the Homeowner's Association which directs a Board representative to the City of Morgan Hill Police Department's Community Service Officer to enact a neighborhood watch program to be established as part of the first phase of the development. For rental projects, neighborhood watch programs shall be administered through a central property management company. (one point, criterion does not apply to small or micro projects)

Note: Proposed developments must be assigned a minimum passing score of five points under this category in order to qualify for building allotments.

(Ord. 1887 N.S. § 1, 2008; Ord. 1839 N.S. § 1 (part), 2007; Ord. 1731 N.S. Exh. A (part), 2005; Ord. 1677 N.S. § 1 (part), 2004; Ord. 1677 N.S. § 1 (part), 2004; Ord. 1575 N.S. § 22, 2002; Ord. 1517 N.S. § 18, 2001; Ord. 1486 N.S. § 15, 2000; Ord. 1346 N.S. § 15, 1997; Ord. 1228 N.S. § 12, 1995; Ord. 1179 N.S. § 15, 1994; Ord. 1049 N.S. § 2, 1991; Ord. 1034 N.S. § 1 (part), 1991)
(Ord. No. 2017 N.S., 7-27-2011; Ord. No. 2051 N.S., Exh. A, 8-22-2012)

18.78.320 Landscaping, screening and color.

- A. Site and architectural design quality as indicated by the amount and character of landscaping and screening and color of buildings. (ten points)
 - 1. All trees, shrubs, ground cover, walls and fences, mounding, landscape furniture, paths, lighting, etc., should be compatible with the topography and other characteristics of the site, the character of adjacent quality landscaping and the architectural features of adjacent structures. Efficiency in exterior design and landscaping is an important part of the character of a home. A gain can be made in terms of heating and cooling, noise abatement and pest control. The functions of plants should be the basis for their use in environmental design.

B. Standards and Criteria. (maximum ten points)

Note: Custom lots and custom lot developments may receive points in pertinent sections below where landscaping will be provided by the lot owner. This requires development agreement commitments being recorded against each such lot, including a statement that landscaping requirements must be in place or bonded prior to receiving city approval for occupancy.

1. Uses landscaping techniques that enhance the quality of the site.
 - a. Applicant agrees to provide twenty-four inch box-size trees, including street trees, from a city approved list, with a minimum height of nine feet and a spread of three to four feet. The box-size trees will be provided within the development at a ratio of one box-size tree per ten trees provided with the landscape area to be installed by the developer. The one box size tree per ten trees calculation does not include street trees. (one point)
 - b. Provides sufficient planting around all necessary and appropriate group parking to achieve shading and visual screening as viewed from the public street. (one point)
 - c. Varied front yard landscaping plans are installed by the developer. For multi-family projects, this criterion shall apply to varied landscaping installed along the project frontage and for the landscaping installed in front of the buildings in the interior portions of the project. (one point)
 - d. Project provides or conforms to a Street Tree Master Plan that addresses tree selection, location of trees on each lot, proper tree spacing and preservation of any existing trees (excluding orchard trees). (one point)
2. Landscape planting and irrigation systems are designed to conserve water usage.
 - a. Drought tolerant grasses are used for lawn areas and no more than twenty-five percent of the landscape area is covered with lawn. The twenty-five percent lawn coverage calculation is exclusive of landscape area within parks. (one-half point)
 - b. Automatic irrigation systems utilize separate valves and circuits for trees; shrubs and ground covers; and lawn areas. Minimum of three separate valves required. A separate valve shall be provided for the following areas: front lawn, rear lawn and for trees, shrubs and groundcover (combined) where viable. If trees, shrubs and groundcover cannot be combined under one valve, a separate valve for trees shall be provided, resulting in a minimum of four separate valves required. Water conserving irrigation system is also used within the development, i.e., drip irrigation. (one-half point)
 - c. The landscape to be installed by the developer will include pervious hardscape coverage such as decorative paving, wood decking, decorative stone and similar non-irrigated areas on at least fifteen percent of the landscape area. Pedestrian walkways across circulation aisles are not included in this item. (one point)
 - d. All other planting in non-turf areas shall be composed of low to moderate water use plants identified in Water Use Classification of Landscape Species Guide or East Bay Municipal Utilities District's Plants and Landscape for Summer-Dry Climates of the San Francisco Bay Region or

- other species, including native plants, that are well adapted to the climate of the region and require minimal water once established. (one point)
- e. Uses a separate water source (e.g., existing well, import or recycled water) to irrigate common area landscape areas that are maintained by a homeowners association. (two points). If separate water source is used to irrigate common area and all front yard areas that are maintained by a homeowners association. (three points)
 - f. Project connects to an existing water supply separate from the city's water system (e.g., an off-site irrigation well) for landscape irrigation. Applies to small and micro projects only. (one point)
 - 3. Landscaping is installed on all areas visible from public and private rights-of-way. (one point)
 - 4. Project uses pervious pavement in all open parking lots, driveways and sidewalk areas to minimize drainage runoff. Project must be located in an area of rapid soil permeability for criterion to apply. (two points)
 - 5. Downtown Area project uses building color to enhance architectural details and add to the visual interest of facades. (one point)

(Ord. 1839 N.S. § 1 (part), 2007; Ord. 1731 N.S. Exh. A (part), 2005; Ord. 1677 N.S. § 1 (part), 2004; Ord. 1575 N.S. § 22, 2002; Ord. 1517 N.S. § 19, 2001; Ord. 1438 N.S. § 13, 1999; Ord. 1346 N.S. § 16, 1997; Ord. 1304 N.S. § 3, 1996; Ord. 1124 N.S. § 1 (part), 1993; Ord. 1034 N.S. § 1 (part), 1991)

(Ord. No. 2017 N.S., 7-27-2011)

18.78.330 Natural and environmental features.

- A. Site design quality in adapting the development to the setting, including the preservation of vegetation, trees, natural terrain and other natural and environmental features. (ten points)
 - 1. The proposed development should always adapt itself to the environment rather than vice-versa. The residences and supportive infrastructure shall be designed with nature in mind, by following the natural form of the land, preserving unique natural features and environmentally sensitive areas, arranging building sites around existing trees and "blending in" the development to the surroundings.
 - 2. A high quality project is one that uses what is available but also improves the total environment for the people who live within and nearby.
- B. Standards and Criteria.
 - 1. The proposed development utilizes environmental preservation techniques.
 - a. Foundation types are designed to minimize grading of the site and road alignment follows and maintains existing ground elevation to the greatest extent possible. Minimal grading is considered a fill or excavation of less than two feet in depth (four feet is acceptable for detention ponds and three feet is acceptable as required fill for flood protection) and restricts the amount of runoff caused by impervious surfaces and the covering of land area suitable for percolation or uses bio-swales where applicable. (one point)
 - b. Comply with city's Sustainable Building Ordinance (70 BIG points). (four points)
 - 2. Over and above commitments made in B.1.a, the proposed development will install the following:
 - a. Preplumb for solar water heating. (one point)
 - b. Install solar water heating system properly sized to meet fifty percent of the anticipated hot water demand for home. (three points)
 - c. 1. Install solar photovoltaic panels to offset fifty percent of anticipated

- electrical energy demand of residential unit. (four points)
- 2. Install solar photovoltaic panels to offset sixty percent of anticipated electrical energy demand of residential unit. (five points)
- 3. Install solar photovoltaic panels of offset seventy percent of energy demand of residential unit. (six points)
- 4. Install solar photovoltaic panels to offset eighty percent of anticipated electrical energy demand of residential unit. (seven points)
- d. Building performance exceeds Title 24. (one point for every five percent better than Title 24 up to a maximum of 5 points)
- e. Additional Build it Green (BIG) Points. (one point for every 10 BIG points greater than 70 up to a maximum of 5 points)

(Ord. 1887 N.S. § 1, 2008; Ord. 1839 N.S. § 1 (part), 2007; Ord. 1731 N.S. Exh. A (part), 2005; Ord. 1677 N.S. § 1 (part), 2004; Ord. 1517 N.S. § 20, 2001; Ord. 1438 § 14, 1999; Ord. 1404 N.S. § 12, 1998; Ord. 1346 N.S. §§ 17, 18, 1997; Ord. 1228 N.S. § 13, 1995; Ord. 1124 N.S. § 1 (part), 1993; Ord. 1034 N.S. § 1 (part), 1991)
(Ord. No. 2017 N.S., 7-27-2011; Ord. No. 2051 N.S., Exh. A, 8-22-2012)

18.78.335 Livable communities.

- A. The extent to which the proposed development exhibits overall project excellence and/or incorporates or otherwise embodies the concept of livable communities, such as proximity to transit, pedestrian orientation, efficiency of street system, mixed use, infill and maximization of use of existing infrastructure. (ten points)
- B. Standards and Criteria.
 - 1. Proposed project phase(s) are subjectively judged by the planning commission to be superior with respect to overall project excellence (two points when awarded by a super majority of the voting members, or one point when awarded by a majority of the voting members of the planning commission).

Note (1): The determination of project excellence will include input from the building and planning divisions and the public works department regarding the performance of the developer during any previous building permit processes. The timeliness and accuracy of the application submittal by the developer for any previous project will be an important consideration. Negative performance factors include more than two plan checks and/or projects which submit for building permits prior to approval by the community development director and prior to application for final map approval. No recommendation will be provided for developers who have not previously built in the city.

Note (2): City staff may award up to two points under this criterion when it is determined that project changes proposed as part of the city's entitlement process will improve the overall project excellence.

- 2. Encourages the use of public transportation:
 - a. In residential areas by constructing bus shelters, benches, reinforced street sections or bus pullout areas and these improvements are located on an approved or planned Valley Transportation Agency (VTA) transit route and accepted by the VTA for maintenance. A letter from the VTA shall be submitted confirming VTA's acceptance and maintenance of the proposed bus stop. For planned bus routes, the VTA letter shall provide confirmation of the future bus route extension. This criterion may apply to a bus stop constructed in the initial or previous phase that would serve subsequent phases of the same development. (up to two points)
 - b. In residential areas by constructing school bus bench and shelter within common

area maintained by an HOA at a location approved by the MHUSD. A letter from the MHUSD shall be submitted confirming acceptance of location. If the bench and shelter are constructed within common area of adjoining development a letter from the HOA accepting maintenance shall be submitted at time of application. This criterion may apply to a school bus bench and shelter constructed in the initial or previous phase that would serve subsequent phases of the same development. (one point)

3. Project is located within a quarter mile walking distance of the bus stop or other transit facility (the W. Main/Hale Park & Ride Facility, Caltrain Station or Route 68 regional transit line). (two points; one point if the project is within one-half mile walking distance of the above transit facilities)
4. Project is designed as "vertical mixed use" with retail/commercial on the ground level and residential above. Larger mixed use projects that combine commercial and residential uses will receive maximum points in this category only to the extent that the residential and commercial uses are well integrated with each other, sufficient pedestrian connections between uses exist and parking lots are minimized from the public view. (up to two points)
5. Builds to planned densities. Downtown area projects that build in the upper one third of the allowable density range will be awarded two points; projects that build to the upper fifteen percent of the density range will be awarded three points.
6. Provides architectural variation and differentiation as follows:
 - a. Uses porches, balconies, for any area viewed from the public right-of-way or multi-unit courtyards interior to the project on at least twenty five percent of units to promote a neighborhood feel. (two points)
 - b. Uses at least two different roof lines and two different pitches throughout the project, i.e. gable, hipped, dormers, Mansard, etc. (one point)
 - c. Uses architecture and profiles and massing that conforms and works with the existing surrounding neighborhoods. Applicable only where a project adjoins an existing neighborhood on at least one side or twenty-five percent of the project's frontage. (one point)
 - d. Provides a consistent level of architectural relief and detailing on all four building elevations. Where two-story rear and/or side-yard building elevations occur, architectural relief shall include some third dimensional design element such as bay windows, balconies, covered porches, decorative trellis, etc. In addition, each standard trim and base color must represent no more than fifteen percent (project size permitting) of the project. (up to two points)
7. Uses design and layout techniques that give individuals maximum privacy within and outside the homes. Such techniques include the off set of windows between units, alternating outdoor patio areas and entrance and consideration of fence height in relation to grade changes. (one point)

(Ord. 1887 N.S. § 1, 2008; Ord. 1839 N.S. § 1 (part), 2007; Ord. 1731 N.S. Exh. A (part), 2005; Ord. 1677 N.S. § 1 (part), 2004)

(Ord. No. 1935 N.S., § 4(Exh. B), 6-3-2009; Ord. No. 2017 N.S., 7-27-2011; Ord. No. 2051 N.S., Exh. A, 8-22-2012)

From [New Mobility.com](#)

Visitability Catching On

William Malleris, a Naperville, Ill., housing developer who uses a wheelchair, spent years proving to his community that building visitable houses can be done easily and cheaply--by constructing large, visitable housing developments himself. On Feb. 5, 2002 his efforts paid off, when the Naperville City Council passed an ordinance requiring all new single-family houses to be built with some visitability features.

Naperville--and Pima County, Ariz., which passed a similar ordinance the same day--join Vermont as having the only laws in the nation requiring visitability features in all new single-family homes, not just homes built with government participation. "This passed because it's the right thing to do," says Malleris. "It's definitely a major breakthrough."

The Naperville ordinance requires features such as 32-inch clear passageways, blocking in the bathrooms for grab bars and lower light switches. The no-step requirement did not pass-yet. "The no-step entrance will take a few months. Our goal is to have it in May."

Vermont and Pima County do require no-step entrances. Other ordinances are also being considered in Santa Monica, Calif., Long Beach, Calif., Philadelphia, Pittsburgh, Cape Cod, Mass., and the state of Kansas.

Eleanor Smith, founder of Concrete Change, the housing organization that introduced the idea of visitability, says she is pleased at the nationwide surge. "To all that I would add the simple word, Yippee! And after that, the obvious: We're only a small part of the way toward changing the dominant homebuilding reality."

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From [Yahoo! News](#)

Naperville Votes for Accessibility

Wed Feb 6, 2002 4:25 PM ET

NAPERVILLE, Ill. - New homes in this fast-growing Chicago suburb will have to be built so that they are more accessible to people in wheelchairs, with wider doorways, lower light switches and other such features.

The City Council adopted the standards in a 7-1 vote Tuesday.

Advocates and city officials said they know of no other U.S. community that has extended the "visitability" standards required in public housing to private, single-family homes. (They are called "visitability" standards since they make it possible for handicapped people to visit others.)

"I think we're on the cutting edge of something," Mayor George Pradel said.

The new standards in this city of 128,000 do not apply to existing houses.

With the new standards, first-floor interior doorways must be at least 32 inches wide so that people in wheelchairs can get through more easily.

To make electrical sockets and light switches easier to reach from a wheelchair, the sockets can be no lower than 15 inches above the floor and the switches can be no higher than 48 inches.

A vote on a proposal to require homes to have at least one step-free entrance was put off for further study.

Some builders said they were concerned that the new standards would add to the cost of new homes.

But city officials said the cost will be minimal. For example, they said, reinforcing bathroom walls in case the homeowner decides to install railings will add no more than \$250 per bathroom.

"This gives people in wheelchairs more freedom," said Bill Malleris, a Naperville activist whose neuromuscular disorder requires that he use a wheelchair. "They can go where they want without having someone lift them out of a chair to go into houses, or help them use the bathroom."

A RESOLUTION REQUESTING THE ONONDAGA COUNTY ADMINISTRATOR
OF THE DIVISION OF COMMUNITY DEVELOPMENT TO PROMOTE THE USE
OF BARRIER FREE REQUIREMENTS IN NEW CONSTRUCTION WHERE
FUNDING IS DERIVED FROM PUBLIC SOURCES

WHEREAS, no statutory requirements presently exist on a state or local level to require that new, single-family and duplex dwellings be constructed to provide access for people with disabilities; and

WHEREAS, people with disabilities are isolated in their own homes and isolated from the community when the homes contain physical barriers such as steps or the person with the disability lacks maneuverability; and

WHEREAS, people with disabilities experience great difficulty finding integrated and accessible housing options; and

WHEREAS, certain features in construction make new homes visitable, and livable, for persons with disabilities; and

WHEREAS, it is the desire of this Legislature for the Onondaga County Administrator of Community Development to promote the use of design features necessary to provide accessibility and usability for physically disabled people in new, single-family homes and duplexes when such homes are constructed with public funds, as herein described; now, therefore, be it

RESOLVED, that this resolution shall be applicable to new, single-family dwellings and duplexes, which receive public assistance through the county; and, be it further

RESOLVED, that the following design requirements shall be the preferred sign requirements for construction of new publicly funded homes when it is determined, at the discretion of the Administrator of Community Development, that such design requirements are feasible;

Preferred Requirement 1. Building Entrances

Applicable dwelling units shall be designed and constructed to have at least one building entrance on an accessible route served by a ramp or a slope, in compliance with ANSI standards, with a maximum slope of 1:12, unless it is impractical due to characteristics of the terrain. This entrance should have an accessible door in accordance with ANSI. Any entrance at the front, side or back of the dwelling is acceptable.

Preferred Requirement 2. Interior Door Criteria

All dwelling units, whether or not on an accessible route, shall be designed in such a

manner that the doors designed to allow passage into and within all premises are sufficiently wide to allow passage by persons in wheelchairs. Doors, except those serving closets less than 15 square feet in area, within individual dwelling units intended for user passage must provide minimum 32" clear opening.

Preferred Requirement 3. Accessible Routes Into and Through the Dwelling Unit

An accessible route shall be designed and constructed in such manner that a 36" wide level route, except at doors, must be provided through the main floor of the unit with ramped or beveled changed at the thresholds.

Preferred Requirement 4. Wall Reinforcement in Bathrooms

Reinforcement in the bathroom walls shall be provided at designated locations as specified by ANSI for future grab bar installation.

Preferred Requirement 5. Light switches, electrical cords, thermostats, and other environmental controls

All applicable dwelling units shall be designed and constructed in such a manner that all premises contain light switches, electrical outlets, thermostats, and other controls in accessible locations, no higher than 48" and now than 15" from the floor.

Preferred Requirement 6 Usable first floor kitchen with wheelchair maneuvering clearances as set forth in ICC/ANSI A117.1-1998

Preferred Requirement 7. Usable first floor bathroom with wheelchair maneuvering clearances as set forth in ICC/ANSI A117.1998

And, be it further

RESOLVED, that the preferences for using barrier free requirements set forth in this resolution may be waived by the Administrator of the Department of Community Development in the event that the Administrator determines, in his/her discretion, that the requirements are not feasible or will any way diminish or jeopardize the ability to obtain outside funding; and be it further

RESOLVED, that nothing contained herein shall be interpreted, construed, or applied in any manner contrary to State or Federal laws, rules, and/or regulations

BILL NO.: 040263

Amending The Philadelphia Code by enacting a new Chapter 17-1200 entitled “VisitAbility” by requiring newly constructed single and multi-family dwellings to be constructed according to established designed principles; all under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. A new Chapter 17-1200 of The Philadelphia Code entitled “VisitAbility” is hereby enacted, to read as follows:

CHAPTER 17-1200. VISITABILITY

§17-1201. Legislative Findings.

The City Council of the City of Philadelphia finds:

(1) VisitAbility is a design criterion that affords all persons basic access to residential buildings. The VisitAbility standard is lower than full accessibility. Therefore, VisitAbility is not the same as Americans with Disabilities Act (ADA) or the National Rehabilitation Act of 1973, Section 504 compliant accessibility. ADA compliant dwellings will automatically be VisitAble; however, VisitAble dwellings are not necessarily ADA compliant;

(2) Designing as many units as possible to be VisitAble allows people with disabilities the opportunity to visit as many neighbors as possible;

(3) Constructing units to be VisitAble includes the creation of a zero step entrance; wider doors and passageways within the dwelling and locating at least one bathroom or powder room on the visitable entry floor.

§17-1202. Definitions.

“Financial assistance from the City” means:

a) a building contract or similar contractual agreement involving a City-funded program or fund, including but not limited to the Redevelopment Authority of the City of Philadelphia, the Philadelphia Housing Development Corporation, the Philadelphia Housing Authority, or a similar program ,

b) a real estate purchase, lease, or donation by the City or its agents;

c) a preferential tax treatment, bond assistance, mortgage assistance, or similar financial advantages from the City or its agents;

d) disbursement of federal or state construction funds, including but not limited to, funds disbursed from the Pennsylvania Housing Finance Agency; the federal Community Development Block Grant program, Home Investment Partnership program, Housing Opportunities for Persons with AIDS program, Section 108 Loan Guarantee program, Supporting Housing program or Hope VI fund program; or

e) a City contract to provide funding or a financial benefit for housing.

§17-1203. Scope of Coverage.

This Chapter applies to new construction of single-family or multi-family dwelling unit or units on or after the effective date of this Ordinance that is funded with financial assistance from the City.

§17-1204. Waivers.

(1) The Redevelopment Authority (“RDA “), its designee or successor, may waive the requirements of §17-1205(1) (Zero Step Entrance) by issuing a visitability waiver if the applicant demonstrates that the topographical conditions of a site are unsuitable for construction. Likewise, if the applicant demonstrates that the interior floor plan is unsuitable for construction, the RDA, its designee or successor, may waive the requirements of §17-1205 (2) or (3).

(2) A person requesting a waiver under this Section must file an application with the RDA, its designee or successor, attaching any documents necessary to demonstrate the applicant’s eligibility for the waiver.

(3) When the RDA, its designee or successor, has received the application, the office shall post a notice at the property site stating that:

(a) the RDA has received the application;

(b) written comments may be filed with the RDA no later than the 10th day after the notice of the application was posted; and

(c) a decision on the application will be made and posted no later than the 15th day after the notice of application was posted.

(4) If the RDA determines that the waiver is appropriate, the office shall issue a waiver to the applicant, in writing no later than the 15th day after the notice of application is posted

(5) The RDA and the Office of Housing and Community Development (OHCD), its designees or successors, shall convene a committee comprised of representatives from the RDA, OHCD, the Mayor ‘s Office of People with Disabilities, the Philadelphia

Association of Community Development Corporations (PA CDC), the Philadelphia Affordable Housing Coalition (PAHC), and the advocacy groups, Liberty Resources, Eastern Paralyzed Veterans Association, Disabled in Action and the Disabilities Law Project for the purpose of promulgating regulations to address issues relating to the waiver process and issues relating to enforcement of this design principle.

§17-1205. Design and Construction Requirements.

(1) Zero-Step Entrance.

For a unit to be Visitable, it must provide at least one Zero-Step Entrance with a minimum 32" clear opening. A zero-step entrance is one with no step at the exterior door and with less than 1/2" difference between the inside and outside surfaces, or with a threshold with less than a 1/2" rise. When selecting sliding doors, choose those with the lowest bottom track and providing at least 34" clear opening.

The entrance door shall be located on the front, side or rear of the building as long as the path of travel to the entrance is accessible.

(2) Doorways and Passage ways.

All doors within individual dwelling units intended for user passage on the visitable entry level floor, except those serving closets less than 15 feet square in area, must provide a minimum 32" clear opening. All passageways on the visitable entry-level floor of a unit must be 36" wide.

(3) Powder Room.

There must be at least one bathroom or powder room on the visitable entry level floor of the unit which complies with specification "B" set forth in the most current edition of the American National Standard for Buildings and Facilities-Providing Accessibility and Usability for Physically Handicapped People (ANSI A 117.1).

In addition, a wall hung lavatory shall be required and the entry door to the powder room/bathroom shall be hinged to swing outwards into the passageway rather than inwards into the powder room.

SECTION 2. This Ordinance shall supersede all statutes or parts of statutes, local, special or general, or regulations, including but not limited to the Pennsylvania Uniform Construction Code, codified at 35 P.S. §7210.301 and Title 4 of The Philadelphia Code entitled "The Philadelphia Building Construction And Occupancy Code," to the extent that they are inconsistent with or in conflict with this Ordinance.

SECTION 3. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect any other provision or application of this Ordinance which can be given effect without the invalid provision or

application, and to this end the provisions of this Ordinance are declared to be severable. If any clause, sentence, paragraph or phrase of this Ordinance shall, for any reason, be adjudged by any court of competent jurisdiction, or administrative agency, to be unconstitutional or otherwise invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph or phrase thereof so found to be unconstitutional or invalid.

SECTION 4. Effective Date. This Ordinance shall take effect immediately upon final approval.

Explanation:

Italics indicate new matter added.

..End

Philadelphia Bulletin



**Office of Housing
and Community
Development**

Serving All through Visitability

OHCD has long recognized the need for low- and moderate-income Philadelphians with disabilities to live more independently in affordable and accessible housing. Similarly, OHCD also promotes the ability of people with disabilities to visit friends and family through development guidelines and support.



Visitable Norris Square homes.

Visitability refers to home construction practices where virtually all new homes—whether or not designated for residents who currently have disabilities—offer a few specific features that make the home easier for people with a mobility impairment to live in and visit. Specifically it involves:

- One zero-step entrance to a home approachable by an accessible route.
- 32" clearances at doorways and 36" wide hallways.
- Powder room (half bath) on the first floor with floor clearance to accommodate a wheelchair.

In 2009, OHCD convened a Visitability Committee that provides outreach and education on the topic, as well as manages a website that showcases accessible units, www.newsontap.org. The committee has also helped the concept become more mainstream in the City of Philadelphia and elsewhere. Visitability is now required in nearly all publicly subsidized multi-family housing built in the city. This includes housing developments financed through OHCD and the Pennsylvania Housing Finance Agency.

The committee and members of the committee through their individual organizations have accomplished the following:

- Visitability written into Philadelphia's updated Planning Code (2011).

- Visitability for Urban Neighborhoods Design Charrette. In partnership with the Community Design Collaborative and OHCD, the Committee held a day-long visitability charrette where architects, designers and others re-imagined the Philadelphia rowhouse in visitable form.
- Visitability included in Philadelphia Corporation for Aging's Laying the Foundation for an Age-friendly Philadelphia, an award-winning agenda to improve the physical and social environments that surround the city's elders.
- Presentations on Visitability at community meetings and to individual groups, including the Building Industry Association (BIA).

The benefits of visitability extend beyond just people with disabilities. Families with young children in strollers, older people seeking to age in place, those facing temporary medical issues and others all can benefit from visitable homes.

If you or your organization is interested in visitability, please visit News On Tap (www.newsontap.org) or contact leigh@dma-housing.com.

Tim's Story: Accessible Independent Living Improves Quality of Life

Although Tim Kinniry has lived with cerebral palsy all of his life, that hasn't stopped him from anything he has put his mind to...and Liberty Housing and OHCD have helped him with this goal. In January of 2010, Tim moved out of a nursing home, where he lacked independence. At the nursing home, his schedule was made for him—when to wake up, when to eat, what to do when. Tim, who loves sports and meeting new people, tells us about his one-bedroom apartment and how living independently helps him live life to its fullest:



Tim Kinniry

"I would like to do everything possible even though I have a disability. I would like to do all I can and living in this apartment has helped make this happen. Liberty Housing, and the funders like OHCD who supported this initiative, have realized the importance of providing opportunities for those with disabilities to be independent.

I work, go to school and have dreams like everyone else. Not everyone realizes

(continued on page 4)



Spring 2012

New Accessible Housing in West Philadelphia

In April, Liberty Housing Development Corporation (LHDC) broke ground on 13 new, fully accessible, one-bedroom apartments in West Philadelphia. The development, called Liberty 13, will be dedicated in honor of former Philadelphia City Councilwoman Carol Ann Campbell, who passed away in 2008. The 20,000 square-foot building is scheduled to open in January, 2013.

Located at 5526 Vine Street, the two-story structure will provide complete accessibility, including roll-in showers, accessible kitchens and barrier-free entrances, as well as a community room and an on-site staff apartment. Eight of the apartments will have direct access to the sidewalk and the remaining five will have elevator access. Individual gas heat and air conditioning for each unit will allow for tenant-controlled comfort. A central laundry area for tenants will provide added convenience.



Officials break ground on Liberty 13.

Bruce Connus, president and CEO of Liberty Housing Development Corporation, said, "Now 13 people with physical disabilities will be able to control their own lives and make their own daily living decisions—when to wake up, go to bed, what to eat, watch on TV—things we take for granted. Thirteen people will now have the same liberties as you and I have."

New Mixed-Use Transit-Oriented Development in North Philadelphia

Mayor Michael A. Nutter arrived by train to break ground on a new transit-oriented development in Eastern North Philadelphia. Developed by Asociación Puertorriqueños en Marcha (APM) and The Jonathan Rose Companies, this environmentally friendly initiative transforms an underutilized lot adjacent to SEPTA's Temple University Regional Rail station into residential and commercial space to create a walkable and sustainable community.

The mixed-use development located at the corner of 9th and Berks Streets, called Paseo Verde, will offer 120 affordable and market-rate apartments and 30,000 square feet of commercial and community service space. The train station serves approximately 7,700 daily weekday passengers on 12 regional rail lines. Fourteen percent of the units will be accessible to persons with disabilities, as is the train station. Environmentally sensitive features include green and blue roofs, permeable paving, water gardens, solar panels, and the use of recyclable and renewable materials. Materials were chosen that will reduce environmentally triggered health conditions, such as asthma.



Jonathan Rose, Council President Clarke, Joe Casey and Mayor Nutter arrive at Temple University SEPTA stop to visit the site of Paseo Verde.

"Paseo Verde represents another step toward Philadelphia becoming America's greenest city," said Mayor Nutter. "Once again, Philadelphia and its development partners are demonstrating that affordable can be sustainable."

Joe Casey, general manager of SEPTA, said, "SEPTA is proud to have been a consistent partner in City, community, and University planning efforts that have led to this project. The Temple Regional Rail Station, one of SEPTA's most interconnected stations, provides students and workers, and soon Paseo Verde residents, with a comfortable and convenient connection to the entire region."



Rendering of Paseo Verde.



Spring 2012

Attendance High at Point Breeze Open House

More than 100 guests visited four stimulus-funded model homes at a recent Point Breeze open house. Developed using Neighborhood Stabilization Program 2 (NSP2) funds, the four homes are part of 40 new affordable homes for sale in Point Breeze. These newly-constructed homes have been priced to provide lower- and middle-income households the opportunity to buy in Point Breeze and have been marketed first to current Point Breeze residents.

In 2010, the City of Philadelphia received \$43.9 million in NSP2 funds through the American Recovery and Reinvestment Act. The City has used NSP2 to stabilize and strengthen neighborhoods impacted by high rates of foreclosure and vacancy.

"The City has used Recovery funds to strengthen neighborhoods in a strategic fashion," said Ed Covington, executive director of the Philadelphia Redevelopment



More than 100 people visited the model homes and talked to housing counselors.



Infill home, second from left, for sale.

Authority (PRA). "These homes represent an opportunity for the average family to buy a house in a revitalizing neighborhood."

Councilman Kenyatta Johnson, who attended the open house, said, "I was pleased that the City marketed the homes first to current residents of Point Breeze. These homes will help maintain the affordability of the neighborhood."

Most of the homes in the Point Breeze developments are affordable to families earning between \$45,000 and \$50,000 per year, and income guidelines apply. Applicants do not need to be first time homebuyers. Free housing counseling is available.

Interested buyers should call Sharon at the Philadelphia Redevelopment Authority at 215-209-8607 or visit <http://www.pointbreezensp.org>.

OHCD Employee Honored

Congratulations to OHCD employee Hiram Carmona on receiving the 11th Annual La Justicia Award given by the Hispanic Bar Association of Pennsylvania (HBA). Hiram serves as the Manager of Housing Counseling and has been essential in the implementation of the city's Residential Mortgage Foreclosure Prevention Program, which has already saved over 4,700 homes since 2008.

The Honorable Annette Rizzo presented the award to Hiram at a reception at the office of Morgan Lewis.



Hiram Carmona and Judge Annette Rizzo.

OHCD is now on Twitter!



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Facebook



Join the OHCD Facebook page for up-to-date news, pictures, RFPs and events. Search for OHCDphila.



Spring 2012



Tim's Story (continued from page 1)



Tim's kitchen features accessible design.

that people with disabilities want the same things as everyone else...and this also means housing...

I contacted Liberty and Bruce Connus showed me this unit in a regular apartment building. Bruce has actually become a mentor of mine, as well as my brother.

This unit is great. I go outside and there are buses to take me everywhere I need to go. I can head on down to the Phillies stadium or go shopping on Washington Avenue. There is a walk-in shower and an accessible washer/dryer. It is great to be able to make your own choices that you don't get to make in a nursing home. Living independently helps your mind, body and character.

Life is what you make of it-you can't feel sorry for yourself. Having a disability definitely doesn't mean life is over!"

A New Beginning for Sojourner House

Construction has begun to increase capacity at Sojourner House by 25 percent! Rehabilitation and expansion is underway to improve this important housing facility for survivors of domestic violence. A new community room, laundry facilities, improved energy and heating efficiency and a new playground in addition to an entire new building will support this crucial housing program provide by Women Against Abuse.

Art Comes Alive with "Commotion"

The Philadelphia Redevelopment Authority (PRA) was joined by PECO and the University of the Arts to celebrate a revolutionary approach to PRA's 53-year-old Percent for Art program. While historically commissioning physical works of art, the program took a new approach that created an innovative series of hands-on community art workshops focusing on visual art, sculpture, dance, drama, music and sound installations in Grays Ferry, Point Breeze, and neighborhoods south of South Street.



PRA director Ed Covington.

PRA's Percent for Art Program, the first in the country, requires redevelopers who build on land acquired from and assembled by the PRA to budget at least one percent of the total building construction costs toward the commissioning of original public art. As part of a project to construct a new electric substation in the Grays Ferry section of the city, PECO provided \$250,000 to support the development of the public art project to be produced in collaboration with area residents.

"Commotion" (www.commotionphilly.org) has brought together local artists collaborating

with residents and area schoolchildren in a series of workshops and hands-on arts activities. The work will be shown at a June festival at sites in the community.

"This is an entirely new approach to public art that engages student artists in the process of conceiving and creating new work in, with, and for a community," said Sean Buffington, president of the University of the Arts, "Our students—under the guidance of an experienced senior artist—collaborated with residents of the neighborhood to devise an authentic and meaningful community arts experience."



As a part of "Commotion," artist Jeb Lewis leads a demonstration workshop with children from Stephen Girard Elementary School.

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION TWO

STEVEN WASHBURN and JEANETTE)	
WASHBURN, husband and wife;)	
WASHBURN COMPANY, INC., d/b/a)	2 CA-CV 2003-0107
WASHBURN CUSTOM BUILDERS; and)	DEPARTMENT B
SOUTHERN ARIZONA HOMEBUILDERS)	
ASSOCIATION,)	<u>OPINION</u>
)	
Plaintiffs/Appellants,)	
)	
v.)	
)	
PIMA COUNTY, a body politic,)	
)	
Defendant/Appellee.)	
<hr/>		

APPEAL FROM THE SUPERIOR COURT OF PIMA COUNTY

Cause No. C-20030754

Honorable Jane L. Eikleberry, Judge

AFFIRMED

Haralson, Miller, Pitt, Feldman & McAnally, P.C.
By Gerald Maltz and Stephen Golden

Tucson
Attorneys for Plaintiffs/Appellants

Barbara LaWall, Pima County Attorney
By Christopher Straub

Tucson
Attorneys for Defendant/Appellee

E C K E R S T R O M, Judge.

¶1 Appellants Steven and Jeanette Washburn, the Southern Arizona Homebuilders Association (SAHBA), and Washburn Company, Inc. (collectively the Washburns), appeal from the trial court's order granting summary judgment in favor of appellee Pima County. The Washburns contend on appeal that the county lacked statutory authority to adopt an ordinance requiring builders of single-family homes to incorporate design features allowing for greater wheelchair access and that the ordinance violates the Arizona Constitution. We affirm.

Background

¶2 On appeal from a grant of summary judgment, we view the facts and all reasonable inferences in the light most favorable to the party opposing the motion. *Pleak v. Entrada Property Owners' Ass'n*, 205 Ariz. 471, ¶2, 73 P.3d 602, ¶2 (App. 2003). In February 2002, the Pima County Board of Supervisors adopted Ordinance 2002-2, the Inclusive Home Design Ordinance, which was apparently modified by Pima County Ordinance 2002-72. Among its other effects, the ordinance promulgated building requirements applicable to the construction of new, single-family homes in unincorporated areas of Pima County. It did so by adopting selected construction standards found in the American National Standards Institute's (ANSI) publication A117.1, *Accessible and Usable Buildings and Facilities* (the ANSI standards), published by the International Code Council (ICC). The adopted provisions require that newly constructed homes incorporate design features that allow people in wheelchairs to more easily enter and use the homes. These features include "doorways wide enough to permit wheelchair access, electrical outlets reachable by a wheelchair-bound person, and bathroom walls reinforced to permit installation of grab bars." The Washburns admit that requiring these features in multi-family residential facilities and places of public accommodation

serves an important government interest but challenge application of the requirements to single-family homes.

¶3 The Washburns applied for a permit to build a single-family home, but the proposed design failed to comply with the ordinance, and the county denied the application. They later filed a declaratory judgment and special action complaint in which they asked the trial court to declare that the county lacked statutory authority to adopt the ordinance and that it violated both the Equal Protection and Privacy Clauses of the Arizona Constitution. Ariz. Const. art. II, §§ 8, 13. The trial court granted the Washburns’ request for resolution of the special action complaint by an order to show cause (OSC) hearing pursuant to Rule 4(c), Ariz. R. P. Special Actions, 17B A.R.S. The county filed a motion for summary judgment and objected to resolving the complaint by OSC. Following arguments on the OSC, the trial court issued an under-advisement ruling, essentially granting summary judgment in favor of the county. In so ruling, the court concluded that the resolution of another case in which SAHBA had participated barred the Washburns from challenging the county’s statutory authority to adopt the ordinance. The court also found that the ordinance was constitutional. Because it is clear from the record that the trial court denied the Washburns’ request for declaratory relief, we need not determine whether the trial court erred in accepting jurisdiction of their special action complaint, an argument the county raised only in its motion for summary judgment. *See* Ariz. R. P. Special Actions 1(a) (“Except as authorized by statute, the special action shall not be available where there is an equally plain, speedy, and adequate remedy by appeal . . .”). Our review focuses instead on whether the trial court properly granted summary judgment in the county’s favor.

Standard of Review

¶4 Summary judgment is proper if the evidence presented by the party opposing the motion has so little probative value, given the required burden of proof, that reasonable jurors could not agree with the opposing party's conclusions. Ariz. R. Civ. P. 56(c)(1), 16 A.R.S., Pt. 2; *Orme Sch. v. Reeves*, 166 Ariz. 301, 309, 802 P.2d 1000, 1008 (1990). In reviewing a grant of summary judgment, we determine *de novo* whether any genuine issues of material fact exist and whether the trial court erred in applying the law. *Bothell v. Two Point Acres, Inc.*, 192 Ariz. 313, 316, 965 P.2d 47, 50 (App. 1998).

Preclusion

¶5 The Washburns first contend the trial court erred in determining either *res judicata* or collateral estoppel precluded them from asserting their statutory claims. These doctrines, also referred to as claim and issue preclusion, preclude a party from relitigating a claim or an issue as a result of previous litigation. *See Smith v. CIGNA HealthPlan of Ariz.*, 203 Ariz. 173, ¶¶22, 25, 52 P.3d 205, ¶¶22, 25 (App. 2002). The county relies on the outcome of a lawsuit filed in the United States District Court for the District of Arizona in which SAHBA had participated. *See Garber v. Pima County*, No. CV 02-489 TUC FRZ (order filed October 11, 2002). The district court found that the plaintiffs, including SAHBA, had failed to state a claim upon which relief could be granted but ultimately dismissed the case for lack of subject matter jurisdiction. *See id.*

¶6 Relying on *Chicot County Drainage District v. Baxter State Bank*, 308 U.S. 371, 60 S. Ct. 317, 84 L. Ed. 329 (1940), the county argues that the Washburns were precluded from bringing this action because they failed to appeal the district court's determination that it lacked subject matter jurisdiction over the federal lawsuit. In that case, the defendant had filed a voluntary

bankruptcy action to allow it to reorganize its debt. After the reorganization plan was approved by the defendant's creditors and affirmed by the district court, the Supreme Court declared unconstitutional the statute under which the bankruptcy court had proceeded. The plaintiff creditor then filed an action in the district court to collect on bonds originally issued by the defendant that had been extinguished under the reorganization plan. The plaintiff prevailed in the trial court, but the Supreme Court reversed, holding that, at the time of the bankruptcy proceedings, the district court had possessed "authority to pass upon its own jurisdiction[,] and its decree *sustaining jurisdiction against attack*, while open to direct review, is res judicata in a collateral action." *Chicot County Drainage Dist.*, 308 U.S. at 377, 60 S. Ct. at 320, 84 L. Ed. at 334 (emphasis added).

¶7 Unlike in *Chicot County Drainage District*, however, the district court in the federal case ruled that it lacked subject matter jurisdiction over the merits of that case. Although SAHBA could have challenged that ruling on direct appeal, it instead filed this action. Citing *Wages v. Internal Revenue Service*, 915 F.2d 1230, 1234 (9th Cir. 1990), the Washburns argue that the district court in the federal case lacked authority to enter a binding decision on the merits once it determined it lacked subject matter jurisdiction. *Wages* is a corollary to *Chicot County Drainage District* and holds that, once a court determines it lacks subject matter jurisdiction over a particular case, it has no authority whatsoever to address the merits of the case. *Wages*, 915 F.2d at 1234 ("[A] Judge who concludes that subject matter jurisdiction is lacking has no power to rule alternatively on the merits of a case."). Because the district court in the federal case ruled that it lacked subject matter jurisdiction over that action, it was precluded from addressing the merits. *Id.* Accordingly, neither *res judicata* nor collateral estoppel precluded the Washburns from bringing this action. The Washburns' failure to appeal the district court's dismissal is immaterial. Although the trial court

erroneously agreed with the county that the Washburns were precluded from bringing their statutory claims, we will affirm the judgment if it was correct for any reason. *Logerquist v. Danforth*, 188 Ariz. 16, 18, 932 P.2d 281, 283 (App. 1996). Accordingly, we turn to the merits of the Washburns' statutory claims.

Statutory Interpretation

¶8 The legislature authorized counties to adopt building codes but “limited [that authority] to the [adoption of] . . . [a]ny building, electrical or mechanical code that has been promulgated by any national organization or association that is organized and conducted for the purpose of developing codes.” A.R.S. § 11-861(A), (C)(1). The Washburns challenge the county's adoption of the ANSI standards, which, through mandatory language, set forth a comprehensive collection of rules for builders to facilitate building access to people confined to wheelchairs. The Washburns contend that the county could not adopt the ANSI standards under § 11-861 because ICC neither titled nor classified those standards as a “code.” Whether the legislature authorized the county to adopt requirements like the ANSI standards is a question of law subject to our *de novo* review. See *Hohokam Irrigation and Drainage Dist. v. Ariz. Pub. Serv. Co.*, 204 Ariz. 394, ¶5, 64 P.3d 836, ¶5 (2003).

¶9 The principal goal in interpreting a statute is to ascertain and give effect to the legislature's intent. *Pleak*, 205 Ariz. 471, ¶7, 73 P.3d 602, ¶7. To do so, we first examine the statute's language. *Lowing v. Allstate Ins. Co.*, 176 Ariz. 101, 103-04, 859 P.2d 724, 726-27 (1993). Because § 11-861 is silent as to what the legislature intended a “code” to comprise, we find the statute ambiguous and consider other factors such as the statutory scheme, the statute's subject

matter, historical context, effects and consequences, and spirit and purpose. *See Sanderson Lincoln Mercury, Inc. v. Ford Motor Co.*, 205 Ariz. 202, ¶11, 68 P.3d 428, ¶11 (App. 2003).

¶10 “Statutes relating to the same subject matter should be read *in pari materia* to determine legislative intent and to maintain harmony.” *Goulder v. Ariz. Dep’t of Transp. Motor Vehicle Div.*, 177 Ariz. 414, 416, 868 P.2d 997, 999 (App. 1993), *aff’d*, 179 Ariz. 181, 877 P.2d 280 (1994). The Washburns note that A.R.S. § 9-802, enacted about thirty years before § 11-861, arguably allows cities to adopt, among other things, building regulations of the nature the county adopted here. In connection with that section, the legislature provided that a code is

a published compilation of rules or regulations prepared by a technical trade association and includes any building code, electrical wiring code, health or sanitation code, fire prevention code, inflammable liquids code, code for slaughtering, processing and selling meat and meat products or for production, pasteurizing and sale of milk and milk products, or other code which embraces rules and regulations pertinent to a subject which is a proper subject of municipal legislation.

A.R.S. § 9-801(1). The Washburns point to the broad function-based language the legislature used to define adoptable codes in this section relating to municipalities, contrast it with the lack of any specific definition for “code” in the section relating to counties, and argue that the difference demonstrates the legislature’s intent to provide counties with markedly less discretion in crafting an appropriate building code. Specifically, the Washburns note that cities are authorized to adopt any “published compilation of rules or regulations prepared by a technical trade association,” § 9-801(1), but argue that counties may only adopt guidelines that are specifically characterized by national technical organizations as “codes.”

¶11 We presume the legislature is aware of existing statutes when it enacts new statutes, and we presume the legislature intends to change the law when it substantively changes the language of a statute. *Prudential v. Estate of Rojo-Pacheco*, 192 Ariz. 139, 149, 962 P.2d 213, 223 (App. 1997); *Brousseau v. Fitzgerald*, 138 Ariz. 453, 455, 675 P.2d 713, 715 (1984). However, we do not view the mere failure of the legislature to amplify the meaning of the word “code” in § 11-861(C)(1), the provision relating to counties, as reflecting an intent to discard its previous understanding of the meaning of that word as articulated in the provision relating to cities.

¶12 In *Rotter v. Coconino County*, 169 Ariz. 269, 818 P.2d 704 (1991), our supreme court discussed the relationship between a county zoning ordinance that regulated nonconforming uses and the state enabling statutes. The court noted that, while the legislature had expressly announced that the “elimination of nonconforming uses in a zoned [municipal] district is for a public purpose,” *id.* at 276 n.7, 818 P.2d 711 n.7, *quoting* A.R.S. § 9-462.02, the legislature had never articulated a similar policy with respect to county zoning decisions. The court found, however, that both governmental subdivisions were similarly enabled to exercise their police powers to zone and to determine suitable permissible uses. *Id.* In the absence of express legislation to the contrary, the court declined to announce a nonconforming use policy that varied between types of governmental authorities. Instead, the court found that the legislature had intended to adopt a uniform land-use policy and did not limit a county’s authority to exercise its police power merely because the legislature had less artfully articulated the scope of county authority. *Id.*

¶13 Like the statute addressed in *Rotter*, § 11-861 entitles counties to determine and implement policies intended to further the general health, safety, and welfare of their residents. *See Village of Euclid v. Ambler Realty Co.*, 272 U.S. 365, 387, 47 S. Ct. 114, 118, 71 L. Ed. 303, 310

(1926); *Emmett McLoughlin Realty, Inc. v. Pima County*, 203 Ariz. 557, ¶11, 58 P.3d 39, ¶11 (App. 2002). Within the confines of guidelines promulgated by national associations organized and conducted for the purpose of developing codes, the legislature has enabled both counties and municipalities to determine regionally tailored building policy, to identify specific design elements that further policy objectives, and to require builders to incorporate those elements. Thus, cities’ and counties’ enabling statutes rest on the same underlying policy considerations.

¶14 Just as the appellants in *Rotter* asked the supreme court to draw far-reaching conclusions from the legislature’s inclusion of one clause in a city enabling statute and its omission from a comparable county enabling statute, the Washburns ask this court to draw a similar far-reaching conclusion from the legislature’s failure to elaborate on the definition of the word “code” in § 11-861(C)(1) when it had done so in the comparable statute relating to municipalities. Following the supreme court’s example in *Rotter*, we decline to assume any legislative intent from the mere omission of surplus explanatory language in the statute relating to counties when the two statutes in question have such obviously similar goals.

¶15 Nor does our function-based reading of the word “code” render superfluous the second mechanism by which a county may adopt a building code. *See State v. McKeon*, 201 Ariz. 571, ¶17, 38 P.3d 1236, ¶17 (App. 2002) (“Whenever possible, we construe statutes so as not to render any clause, sentence, or word superfluous.”). Under that second alternative in § 11-861(C)(1), a county may adopt the building code of “the largest city in that county” without regard to whether that code has been “promulgated by a national organization or association.” In finding that the word “code” carries a similar meaning within the statutes enabling counties and cities to regulate construction, we do not suggest that the legislature gave all of the same options to both political

subdivisions. A city is authorized to adopt any building code “prepared by a technical trade association.” § 9-801(1). A county, on the other hand, may adopt codes promulgated only by a “national organization or association that is organized and conducted for the purpose of developing codes.” § 11-861(A) and (C)(1). Thus, the legislature authorized cities to adopt construction regulations published by a significantly broader range of sources, including local and parochial technical associations. Because a city building code might therefore contain components that could not be adopted by a county through its own independent authority, a county could not pursue a policy of uniformity within incorporated and unincorporated portions of its boundaries without receiving special legislative authority to mimic the code of its largest city.

¶16 In contrast to the Washburns’ suggestion that we should view the “largest city” clause from § 11-861(C)(1) as an implied limitation on the definition of the word “code,” the clause shows that when the legislature has intended to constrain a county’s authority to adopt building codes, it has been able to articulate the nuances of such limitations. The clause requires a county that has adopted its building code from the “largest city” in the county to also adopt any subsequent building code changes the city enacts. The legislature has also limited a county’s ability to adopt fire codes by mandating that such codes must be at least as stringent as the fire code adopted by the state fire safety committee. *See* § 11-861(C)(2); A.R.S. § 41-2146.¹ Given the willingness of the legislature to lucidly articulate specific limitations on county authority in the context of adopting building requirements, we will not infer from its *silence* an intent to limit counties to the most narrow and hypertechnical definition of the term “code.”

¹ The underlying policy of these provisions—promoting a minimum measure of uniformity between adjacent jurisdictions—is inapplicable here.

¶17 The Washburns also asserted in oral argument before this court that the legislature’s use of the word “limited” in § 11-861(C) conveys its intent to narrow the definition of the word “code” used in the sentence thereafter. Viewed in context, the obvious thrust of that provision confines counties to the use of building standards “promulgated by any national organization or association that is organized and conducted for the purpose of developing codes.”² In short, § 11-861(C) limits counties’ choice of building regulations to those that have been developed by knowledgeable professionals—but does not limit the definition of the word “code.” To the contrary, § 11-861(C)(1) explicitly authorizes a county to adopt “[a]ny building, electrical or mechanical code” which has the appropriate professional pedigree. (Emphasis added.) Thus, the Washburns’ assertion that § 11-861(C) impliedly instructs us to construe the word “code” as a highly technical term of art—rather than by its common usage—finds little support in the language of the statute itself.

¶18 The Washburns also assert that, because § 11-861 requires counties to adopt building “codes” promulgated by nationally recognized organizations, we should interpret the term consistently with the term’s meaning within the construction industry. However, we attribute no specialized meaning to statutory language unless the legislature has clearly conveyed its intent that we do so. *Kilpatrick v. Superior Court*, 105 Ariz. 413, 421, 466 P.2d 18, 26 (1970) (“Words are to be given their usual and commonly understood meaning unless it is plain or clear that a different meaning was intended.”); *see also* A.R.S. § 1-213 (“Words and phrases shall be construed according

² The Washburns do not dispute that ANSI is a “national organization or association” organized for the purpose of developing and promulgating regulations for the construction of homes. Thus, they do not challenge the professional pedigree of ANSI in this regard. Rather, they argue that ANSI promulgates “standards” rather than codes. Their challenge to ANSI as a qualified organization under § 11-861(A) and (C)(1) thus depends on a broader question we address here—whether the legislature intended the word “code” to include comprehensive sets of standards such as those promulgated by ANSI.

to the common and approved use of the language.”). Thus, the focus of our inquiry is not whether the terms “code” and “standard” have acquired an industry-specific meaning but whether the legislature intended the term “code” within § 11-861(C)(1) to convey an industry-specific meaning. Because there is nothing in the statutory history or the statute’s language in § 11-861(C)(1) suggesting the legislature intended to imbue the terms “code” and “standards” with mutually exclusive, industry-specific definitions the Washburns proffer, we cannot agree with the Washburns’ suggestion. If the legislature had intended to use the word “code” as an industry-specific term of art so as to substantially limit the options of county governments in their choice of nationally promulgated building specifications, it would have articulated that intention. Certainly, the legislature could not have expected counties to divine such an intent from a mere use of the word “code” in the statute.

¶19 Nor do we find any caveat in the ANSI standards themselves indicating they could not constitute a “code” within the meaning of § 11-861(C)(1). The foreword to the ANSI standards provides in part that the standards, “when adopted as a part of a building code, would be compatible with the building code and its enforcement.” According to the Washburns, this language demonstrates that the ANSI standards were not intended to stand by themselves as a “code.” But the Washburns’ argument presupposes that a county could never amend or augment its current building code in a minor fashion without adopting a new comprehensive building code. We find nothing in § 11-861(C)(1) that prevents the county from amending or augmenting its comprehensive building regulations with self-contained “codes,” promulgated by appropriate national organizations, that address discrete components of home construction. Moreover, the above-quoted foreword to the

ANSI standards demonstrates ANSI's expectation that the standards would have an equal status to other parts of a pre-existing building code once adopted.

¶20 We are also not persuaded to reach a contrary result merely because initially the ANSI standards were not applicable to single-family homes. *See* ANSI standards § 101 (“These criteria are intended to be consistent with the intent of only the technical requirements of the Federal Fair Housing Act Accessibility Guidelines.”); 42 U.S.C. § 3603(b)(1) (Fair Housing Act does not apply to most single-family homes). Notwithstanding the original application of the ANSI standards, those standards include a provision that suggests ANSI drafted the standards to be capable of flexible application to different types of “dwelling units” in various settings. Furthermore, the foreword demonstrates that ANSI anticipated the need to be compatible with other types of building codes and drafted the standards with this in mind. Indeed, the very use of the term “standard” connotes compatibility with complementary regulations. We address the Washburns’ other claims regarding the county’s application of the ANSI standards to single-family homes in the context of their challenges to the ordinance’s constitutionality.

¶21 We also find no policy-based explanation for why the legislature would have intended to limit the breadth of the word “code” as used in § 11-861(C)(1). Without question, counties are generally empowered to regulate the construction of homes consistent with specifications suggested by appropriate national bodies. A county’s ability to do so depends upon its power to mandate the incorporation of particular design elements. The Washburns do not dispute that counties may enact guidelines regulating the construction of new homes.³ Although they strenuously argue that a county

³ During oral argument, the Washburns presented us with an example of a “code” that, in their view, a county would be authorized to adopt, “the 2000 International Residential Code.”

may only adopt a set of requirements labeled as a “code” but not a set of requirements labeled as “standards,” they point to no procedural differences or differences in professional or scientific scrutiny between the manner in which ANSI promulgated the standards adopted here and the manner in which, for example, the ICC promulgates the International Building Code. Both publications define minimum design criteria to implement public policy goals in the building of structures; both anticipate that local governmental authorities will tailor the criteria to promote regionally prioritized public policy; and, once adopted, both contain mandatory language for how the construction must occur. Thus, we are given no plausible explanation as to why the legislature would have intended to make the hypertechnical distinction that the Washburns now urge in challenging the county’s authority to adopt the ANSI standards as a code. To accept the Washburns’ construction of § 11-861(C) would require us to exalt form over substance. For the foregoing reasons, we find that the county has not exceeded its statutory authority in adopting the ANSI standards here because those collected standards constitute an example of “[a]ny building . . . code that has been promulgated by any national organization . . . that is organized for the purpose of developing codes.” § 11-861(C)(1).

¶22 In a related argument, the Washburns also assert the county lacked the authority to adopt only portions of the ANSI standards. But they cite no authority for this proposition, and we defer to the determination of the Board of Supervisor that the community’s interests were advanced by adopting only specific portions of the ANSI standards. *See Ariz. Fence Contractors Ass’n v. City of Phoenix*, 7 Ariz. App. 129, 130-31, 436 P.2d 641, 642-43 (1968) (building codes valid exercises of municipality’s police power). Moreover, the ANSI standards themselves contemplate, through a so-called scoping provision, the need for governmental authorities to adapt those standards to the specific needs of their communities. Accordingly, a governmental authority that enacts a tailored

version of the ANSI standards operates in conformity with the intentions of the professional organization that promulgated the standards. In so doing, the county complies with the requirement of § 11-861(C)(1) that building regulations be consistent with standards set forth by a qualified “national organization.” We therefore determine that § 11-861(C)(1) enables counties to adopt individual building design criterion “promulgated by any national organization or association that is organized and conducted for the purpose of developing codes” that the county determines advances the general health, safety, and welfare of its residents.

Constitutional Claims

¶23 As they did below, the Washburns next claim the ordinance violates a homeowner’s right to privacy in his or her home under the Privacy Clause, article II, § 8 of the Arizona Constitution. Although they concede that the government possesses the right to adopt building, fire, and mechanical codes that provide for the protection of the general population, they question whether the county can constitutionally impose costly design requirements on all new private homeowners “that have value to less than 1% of the population.” They further assert the ordinance “deprives new homeowners and builders of the fundamental right to design private homes . . . by imposing design criteria that invade the exercise of personal, private, and aesthetic choices for personal private living spaces.”

¶24 Homeowners do not have “a right to be completely free from governmental regulation of the use and occupancy of [their] real property.” *State v. Watson*, 198 Ariz. 48, ¶9, 6 P.3d 752, ¶9 (App. 2000). Our courts have already determined that building codes that affect the exercise of homeowners’ “personal, private, and aesthetic choices” are a proper exercise of police power. *Id.*

at ¶14. Accordingly, we agree with the trial court that the ordinance does not unconstitutionally infringe on a homeowner's right to privacy.

¶25 In a related argument, the Washburns contend the ordinance violates their rights under Arizona's Equal Protection Clause, article II, § 13 of the Arizona Constitution, because it burdens only those people constructing new homes. The level of scrutiny we apply to a discriminatory law depends upon whether that law affects a fundamental right or a suspect class or enacts a gender-based classification. *Simat Corp. v. Ariz. Health Care Cost Containment Sys.*, 203 Ariz. 454, ¶15, 56 P.3d 28, ¶15 (2002). Other than pointing to their fundamental right to privacy, the Washburns point to nothing that would subject the ordinance to heightened scrutiny. Because we have already found that the ordinance does not unconstitutionally affect the right to privacy, and because the county has not engaged in any suspect classification in burdening builders of new homes, we uphold the ordinance "so long as there is a legitimate state interest to be served and the legislative classification rationally furthers that interest." *Id.* The Washburns bear the burden of establishing the unconstitutionality of the ordinance. *See Empress Adult Video and Bookstore v. City of Tucson*, 204 Ariz. 50, ¶2, 59 P.3d 814, ¶2 (App. 2002).

¶26 To the extent the Washburns argue the Board of Supervisors had no rational basis for concluding that private home designs should facilitate access to people confined to wheelchairs, we disagree. "[I]f the court can hypothesize any rational reason why the legislative body made the choice it did, the statute or ordinance is constitutionally valid. This test validates statutes even if the legislative body did not consider the reasons articulated by the court." *Haines v. City of Phoenix*, 151 Ariz. 286, 290, 727 P.2d 339, 343 (App. 1986). While reasonable minds might differ over whether government should impose these types of design criteria on those building new homes, the

propriety of that public policy decision must be made through the political process by duly elected officials.

¶27 The uncontested evidence established that approximately one percent of the population is confined to wheelchairs, but the county points out that a much larger percentage will suffer a disability at some point in their lives. Although all age groups are affected by disability, the county introduced evidence that approximately forty-one percent of people over the age of sixty-five have some form of disability. Disability is a growing problem both nationally and locally, and the county also introduced evidence that Arizona's population of people over the age of sixty is expected to triple by 2025. Although many of these disabled people will not be confined to wheelchairs, the county concluded from these figures that the number of people confined to wheelchairs is rising. For these reasons, the county addressed a legitimate governmental interest when it adopted a building code designed to increase the number of homes accessible to those in wheelchairs. *Cf. Arizona Fence Contractors Ass'n*, 7 Ariz. App. at 131-32, 436 P.2d at 642-43 (adopting building code valid exercise of municipality's police power).

¶28 The Washburns also argue that the ordinance is not rationally related to further the county's interests. Again, we disagree. "A perfect fit is not required; a statute that has a rational basis will not be overturned 'merely because it is not made with "mathematical nicety, or because in practice it results in some inequality.'"" *Big D Constr. Corp. v. Court of Appeals*, 163 Ariz. 560, 566, 789 P.2d 1061, 1067 (1990), *quoting Bryant v. Continental Conveyor & Equip. Co.*, 156 Ariz. 193, 197, 751 P.2d 509, 513 (1988), *quoting Uhlmann v. Wren*, 97 Ariz. 366, 388, 401 P.2d 113, 128 (1965); *see also Standhardt v. Superior Court*, ___ Ariz. ___, ¶35, 77 P.3d 451, ¶35 (App. 2003). Although it is true that not all of the people affected by disabilities will benefit from the

wheelchair access provisions of the ordinance and, although those conducting renovations of existing homes are not required to comply with the ordinance, a regulation may rationally advance a governmental interest despite the fact that it is underinclusive. *See Bowen v. Owens*, 476 U.S. 340, 348, 106 S. Ct. 1881, 1886, 90 L. Ed. 2d 316, 324 (1986).

¶29 The Washburns lastly contend the ordinance does not rationally advance the county's interests because it places the financial design burdens on homeowners who will probably never be confined to wheelchairs. But the county submitted to the trial court the results of a study suggesting that complying with the ordinance would cost only about \$100. In addition, § 103.1 of the ordinance provides that the county may waive any design requirement if a building official determines that the cost of complying with the requirement exceeds \$200. Indeed, the Board of Supervisors found that the cost of including the ordinance's designs into a new home was substantially less than the cost of renovating a home to accommodate a person confined to a wheelchair. On this record, the Board of Supervisors could have rationally concluded that the benefit to the community in providing for the disabled justified the comparatively minimal cost of implementing the required design features. Although the Washburns now contest the accuracy of the county's assertions as to the costs of these renovations, they failed in the trial court to introduce controverting evidence regarding the cost of compliance. *See* Ariz. R. Civ. P. 56(e), 16 A.R.S., Pt. 2. The Washburns, therefore, have failed to establish that there were genuine issues of material fact precluding summary judgment. *See Orme Sch.*, 166 Ariz. at 309, 802 P.2d at 1008. Because the ordinance rationally advances a legitimate governmental interest, the trial court did not err in concluding that the ordinance does not violate Arizona's Equal Protection Clause.

¶30

Affirmed.

PETER J. ECKERSTROM, Judge

CONCURRING:

PHILIP G. ESPINOSA, Chief Judge

JOHN PELANDER, Presiding Judge



SUMMARY OF PIMA COUNTY'S INCLUSIVE HOME DESIGN ORDINANCE

BACKGROUND

In response to the needs of a rapidly growing number of senior citizens and persons with disabilities, the Pima County Board of Supervisors adopted the Inclusive Home Design Ordinance. This ordinance requires that all newly built homes offer a very basic level of accessibility. Requirements of this ordinance, which are summarized below, are a minimum standard. Alternative designs, products, or technologies which provide equivalent or superior accessibility and usability, may be used. THIS ORDINANCE DOES NOT REQUIRE EXISTING HOMES TO BE RETROFITTED.

APPLICATION

This ordinance applies to all dwelling units (site-built homes) constructed in unincorporated Pima County after October 8th, 2002. Dwelling units for which plans have already been certified prior to October 8th, 2002 shall be exempt from its provisions until the date of their next annual renewal. These are detached one, two and three-family homes which have one occupiable floor at grade level.

ACCESSIBLE FLOOR

This is any occupiable floor which is less than one story above or below grade, with direct access to grade.

EXTERIOR ACCESSIBLE ROUTE

There shall be at least one exterior accessible route to the accessible entrance. This route may originate from the carport, driveway, or public street or sidewalk. The slope of this accessible route to the accessible entrance shall not exceed one-foot vertical rise per twenty feet horizontal distance (1:20), unless a ramp is constructed complying with the 2000 International Residential Code; (ramps may have a grade of 1:12).

ACCESSIBLE ENTRANCE

There shall be at least one no-step, accessible entrance to the home. This entrance may be at the front, back, side, garage or carport of the home, but may not be through a bedroom. The door of this entrance shall be 32" wide minimum and shall meet the door hardware requirements described in this pamphlet.

INTERIOR ACCESSIBLE ROUTE

At least one accessible route shall connect all spaces and elements which are a part of the accessible floor of the home. Exceptions to the interior accessible route provision include a raised or sunken portion of a living, dining or sleeping room. This route shall not pass through bathrooms, closets, or similar spaces. As per existing code, this route is required to be 36" wide minimum.

THRESHOLDS

Thresholds at the accessible entrance and along accessible routes may be ½ inch high maximum. Changes in level which exceed ¼ inch high, shall be beveled, with a slope not steeper than one inch rise to 2 inch run (1:2).

INTERIOR DOORS

Doorways on the accessible route shall have a clear opening of 30 inches wide minimum. A 32" (2' 8") wide door satisfies these requirements. This door shall contain hardware meeting the door hardware requirements described in this pamphlet.

DOOR HARDWARE

Handles, pulls, latches, locks, and other operable parts on accessible doors shall have a shape that is easy to grasp with one hand and that does not require tight grasping, pinching, or twisting of the wrist to operate. Lever hardware satisfies the requirements of this provision.

BATHROOM WALL REINFORCEMENT

In bathrooms on the accessible route, reinforcement shall be installed to allow the future installation of grab bars on walls adjacent to the tub and toilet. In addition, reinforcement shall be installed in shower compartments for future installation of grab bars. This reinforcement shall be installed flush with the studs and at the following locations:

Toilet: 33"-36" above the floor on all adjacent walls. Horizontal length of reinforcement shall be sufficient to allow a 42" grab bar and 24" rear grab bar. **Note:** Nothing in the ordinance requires that the toilet be placed by a side wall.

Tub: Horizontal length reinforcement shall be sufficient to allow for

- a) Back Wall: Two backing reinforcements, one backing reinforcement horizontal position 33" minimum and 36" maximum above the floor, and one backing reinforcement 9" above the rim of the bathtub. Each backing reinforcement shall be 24" long minimum and shall be 24" maximum from the head end wall and 12" maximum from the foot end wall.
- b) Foot End Wall: One backing reinforcement 24" long minimum on the foot end wall at the front edge of the bathtub.
- c) Head End Wall: One backing reinforcement 12" long minimum on the head end wall at the front edge of the bathtub.
- d) Shower walls shall have backing on a minimum of two walls not to include control valve wall mounted at 33" - 36" above shower floor.

All wall reinforcement shall be capable of resisting shear and bending forces of a minimum of 250 pounds. Reinforcement is not required at the location of vanities, linen closets, and pre-molded shower/tub surrounds, or in a room containing only a sink and a toilet, provided that the room does not contain the only sink or toilet on the accessible floor of the home.

ELECTRICAL

- All light controls shall be placed no higher than 48", on center, above the floor.
- Where practical, all electrical receptacles shall be placed no lower than 15", on center, above the floor.
- All thermostats shall be placed no higher than 54", on center, above the floor.

The exceptions to these provisions are as follows:

1. Electrical receptacles serving a dedicated use.
2. Appliance mounted controls or switches.
3. A single outlet where all of the following conditions are met:
 - d) The outlet is above a length of countertop that is uninterrupted by a sink or appliance; and
 - e) At least one receptacle is provided for that length of countertop; and
 - f) All other receptacles provided for that length of countertop set no higher than 48".
4. Floor electrical receptacles.
5. Plumbing fixture controls.
6. HVAC diffusers.
7. Ceiling fan mounted controls.

WAIVER PROVISIONS

Upon a determination by the Building Official that by virtue of terrain or other unusual characteristics of the building site, there are practical difficulties associated with compliance of any specific provision of this standard, and that the additional cost to comply with the applicable provision of this standard shall exceed two hundred dollars, as shown by clear and convincing evidence presented by the applicant, the Building Official may waive the requirements of that specific provision.

For any question, please contact Development Services Building Codes Division at (520) 740-6490.

Pittsburgh, Pennsylvania, Code of Ordinances >> - HOME RULE CHARTER of the CITY OF PITTSBURGH, PENNSYLVANIA >> TITLE TWO: - FISCAL >> ARTICLE IX: - PROPERTY TAXES >> CHAPTER 265: EXEMPTIONS FOR RESIDENTIAL IMPROVEMENTS >>

CHAPTER 265: EXEMPTIONS FOR RESIDENTIAL IMPROVEMENTS

§ 265.01 DEFINITIONS.

§ 265.02 BOUNDARIES.

§ 265.03 EXEMPTION FOR IMPROVEMENTS.

§ 265.04 EXEMPTION FOR RESIDENTIAL CONSTRUCTION.

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§ 265.07 TRANSFERABILITY.

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§ 265.09 EFFECTIVE DATE.

§ 265.10 PROSPECTIVE APPLICATION.

§ 265.11 REPORTS TO COUNCIL.

§ 265.01 DEFINITIONS.

As used in this Chapter, the following words and phrases shall have meanings set forth below:

- (a) **BOARD.** The Office of Property Assessments of Allegheny County, Pennsylvania or its successor(s), if any, responsible for assessing property in the City.
- (b) **DETERIORATING AREAS.** Those locations in the City which Council, after public hearing, has determined to be physically impaired on the basis of one (1) or more standards including, but not limited to, the following:
 - (1) The residential buildings, by reason of age, obsolescence, inadequate or outmoded design or physical deterioration have become economic and/or social liabilities.
 - (2) The residential buildings are substandard or unsanitary for healthful and safe living purposes.
 - (3) The residential buildings are overcrowded, poorly spaced, or are so lacking in light, space and air as to be conducive to unwholesome living.
 - (4) The residential buildings are faultily arranged, cover the land to an excessive extent or show a deleterious use of land, or exhibit any combination of the above which is detrimental to health, safety or welfare.
 - (5) A significant percentage of buildings used for residential purposes is more than twenty (20) years of age.
 - (6) A substantial amount of unimproved, overgrown and unsightly vacant land exists which has remained so for a period of five (5) years or more indicating a growing or total lack of utilization of land for residential purposes.
 - (7) A disproportionate number of tax exempt or delinquent properties exists in the area.

An area can be established as deteriorated even though it is not a slum; and any deteriorating area may include buildings which are not in and of themselves blighted or dilapidated.

- (c) **DETERIORATED NEIGHBORHOODS.** Any area containing unsafe, unsanitary or overcrowded buildings, vacant, overgrown and unsightly lots of ground; a disproportionate number of tax delinquent properties; excessive land coverage; defective design or arrangement of buildings, street or lot layouts; economically and socially undesirable land uses; impoverished, as certified to by the Department of Public Welfare and approved by the Department of Revenue under the "Neighborhood Assistance Act"; or blighted because of inadequate dwellings therein or because of inadequate planning of the area or the lack of proper light and air and open space.
- (d) **DETERIORATED PROPERTY.** Any dwelling unit located in a deteriorated neighborhood; or a dwelling unit which has been, or, upon request, is certified by a health, housing or building inspection agency as unfit for human habitation for rent withholding, or other health or welfare purposes; or a dwelling unit which has been the subject of an order by an agency requiring the unit to be vacated, condemned or demolished by reason of noncompliance with laws, ordinances or regulations.
- (e) **IMPROVEMENT.** Repair, construction or reconstruction, including alterations and additions, having the effect of rehabilitating an existing structure so that it becomes habitable or attains higher standards of housing, safety, health or amenity, or is brought into compliance with the laws, ordinances or regulations governing housing standards. Ordinary upkeep and maintenance shall not be deemed an improvement.
- (f) **RESIDENTIAL UNIT.** Any portion of property set aside and intended for use as living quarters for one (1) or more individuals, such portion having a separate kitchen and a minimum of one (1) bathroom for the use of its occupant or occupants. Residential units shall not include any units constructed pursuant to federally subsidized programs providing for rental units, including, but not limited to [Section 804](#), Housing and Community Development Act of 1974, P.L. 93393; Section 236 U.S. Housing Act of 1937; and [Section 202](#) U.S. Housing Act of 1959.
- (g) **TYPE OF UNIT.** House, apartment, duplex, semi-detached house or other dwelling place.
- (h) **RESIDENTIAL CONSTRUCTION.** The erection of a building or buildings on formerly unoccupied land or on land which buildings which formerly existed have been demolished or razed, which erection consists of a residential unit or units designed to bring about higher standards of housing, safety, health or amenity. RESIDENTIAL CONSTRUCTION shall not be construed to include improvements, repairs, maintenance or any rehabilitation of existing units.
- (i) **LOCAL TAXING AUTHORITIES.** Any county, city, township, incorporated town or borough or school district enacting implementary legislation pursuant to Act 42 of 1977 and which imposes taxes on the basis of real property assessments.
- (j) **PERSON.** Any individual, corporation, association, partnership or nonprofit corporation, other than a developer, sponsor, real estate investment trust or other investor receiving subsidy or aid under a federal program who owns or develops new residential units or who is liable for real estate taxes on new residential construction; taxpayer.
- (k) **MUNICIPAL GOVERNING BODIES.** Any city, township, incorporated town or borough enacting implementary legislation pursuant to Article III of Act 42 of 1977 in which maximum actual costs for exemption are set.
- (l) **ACTUAL COST.** The amount of money expended in the construction of a new residential unit or units, or in the rehabilitation of an existing unit.
- (m) **ASSESSED VALUATION.** The worth assigned to a residential unit or units or dwelling unit as certified to the City by the Board of Property Assessment, Appeals and Review. The term ASSESSED VALUATION shall not apply to the worth as signed to land exclusive of buildings.
- (n) **VISITABILITY.** The presence of architectural design features, as outlined in this Section, which allow basic access and use of a residential dwelling by people with significant mobility impairments, and which minimize the cost of full accessibility modifications, if necessary, at a

later time.

- (o) CIRCULATION PATH. An exterior or interior way of passage from one place to another for pedestrians.
- (p) SIGNIFICANT MOBILITY IMPAIRMENT. The disability of a person who needs assistive mobility technology in the form of a wheelchair, walker, crutches or similar device to move along a circulation path.
- (q) POWDER ROOM. A toileting room having at a minimum, a water closet and a lavatory.
- (r) PEDESTRIAN SITE ARRIVAL POINT. A place where pedestrians may enter a dwelling unit site from a public right-of-way. These typically include sidewalks, driveways, streets, alleys, or paths.
- (s) NO-STEP ENTRY. An entry to a housing unit that has no step or other barrier to people who have significant mobility impairment.
- (t) ACCEPTABLE SLOPE. A variable grade measured by rise over distance.
- (u) DWELLING. A structure used as a place of habitation by a natural person. The term shall include new residential construction, existing residential construction or any commercial or industrial building that is converted to residential use.
- (v) DOWNTOWN DISTRICT. The area begins at 11th Street and Penn Avenue, and continues northward along 11th Street to the Allegheny River. The boundary line then follows the southern shore of the Allegheny River westward to Commonwealth Place, where it turns south and follows Commonwealth Place to the Monongahela River. The boundary then follows the northern shore of the Monongahela River eastward to the Crosstown Boulevard, where it turns northward on the Crosstown Boulevard to the intersection with Fifth Avenue. The boundary travels west on Fifth Avenue to Ross Street, goes north on Ross Street to Bigelow Boulevard, follows Bigelow Boulevard north to the Crosstown Boulevard, then north to Liberty Avenue. The boundary then proceeds west on Liberty Avenue to 12th Street, goes north for one block on 12th Street, turns west on Penn Avenue and ends at the intersection of Penn Avenue and 11th Street. The Downtown District does not include any parcels located within a Tax Increment Financing District.
- (w) TARGETED GROWTH ZONES. The following neighborhood areas:
 - (1) Allentown. All property within boundary of the Allentown neighborhood (as defined by Department of City Planning boundary). The neighborhood is bounded by William Street, Arlington Avenue, Hartford Street, hillside, Browville Street, Keeling Street, St. Martin Street, Amanda Street, Cedarhurst Street, Beltzhoover Avenue, Grandview Park and Bigbee Street.
 - (2) Arlington. All property within boundary of the Arlington neighborhood (as defined by Department of City Planning boundary). The neighborhood is bounded by Arlington Avenue, Syrian Street, Devlin Street, Arlington Heights Neighborhood Boundary, Handler Street, East Carson Street, Becks Run Road, Parkwood Road and Mount Oliver Borough Boundary.
 - (3) Beltzhoover. All property within boundary of the Beltzhoover neighborhood (as defined by Department of City Planning boundary). The neighborhood is bounded by Warrington Avenue, Kingsboro Street, Beltzhoover Avenue, McKinley Park and Saw Mill Run Boulevard.
 - (4) California-Kirkbride. All property within boundary of the California Kirkbride neighborhood (as defined by Department of City Planning boundary). The neighborhood is bounded by Island Avenue, Brighton Road, Pennsylvania Avenue, Allegheny Avenue, California Avenue and Marshall Avenue.
 - (5) East Allegheny. All property within boundary of the East Allegheny neighborhood (as

defined by Department of City Planning boundary). The neighborhood is bounded by Goehring Street, Itin Street, Concord Street, Vinial Street, Troy Hill Road, Phineas Street, Chestnut Street, East Ohio Street, Heinz Street, Canal Street, Anderson Street, Stockton Street, Cedar Street, North Street, James Street, Fountain Street, Compromise Street and East Street.

- (6) Elliott. All property within boundary of the Elliott neighborhood (as defined by Department of City Planning boundary). The neighborhood is bounded by Steuben Street, Noblestown Road, Arnold Street, Berdella Street, Chartiers Avenue, the Corliss Tunnel and the Ohio River.
- (7) Esplen. All property within boundary of the Esplen neighborhood (as defined by Department of City Planning boundary). The neighborhood is bounded by the Ohio River, the Wind Gap Bridge, hillside and the Corliss Tunnel.
- (8) Fineview. All property within boundary of the Fineview neighborhood (as defined by Department of City Planning boundary). The neighborhood is bounded by Lafayette Street, Biggs Avenue, Glenrose Street, Hazelton Street, Suffolk Street, Interstate 279, Fountain Street and North Federal Street.
- (9) Hays. All property within boundary of the Hays neighborhood (as defined by Department of City Planning boundary). The neighborhood is bounded by Becks Run Road, the Monongahela River, Mifflin Road, Lebanon Road and the City of Pittsburgh Southern Boundary.
- (10) Hazelwood. All property within boundary of the Hazelwood neighborhood (as defined by Department of City Planning boundary). The neighborhood is bounded by the Monongahela River, Hot Metal Street, Second Avenue, Greenfield Avenue, Sylvan Avenue, Waldeck Street, Bigelow Street, Hazelwood Avenue, Browns Hill Road, Imogene Road, Desdemona Avenue, Johnston Avenue and Glen Hazel Neighborhood, Bolten Street, Nordica Street, Glen Hazel Neighborhood Boundary, Johnston Avenue, Burgwin Playground, Alluvian Street and the Second Avenue Ramp.
- (11) Homewood North. All property within boundary of the Homewood North neighborhood (as defined by Department of City Planning boundary). The neighborhood is bounded by Frankstown Avenue, Oakwood Street, Tioga Street, Pitt Street, Hill Avenue, the City of Pittsburgh Eastern Boundary, the East Busway, North Dallas Avenue, Susquehanna Street and North Murtland Street.
- (12) Homewood South. All property within boundary of the Homewood South neighborhood (as defined by Department of City Planning boundary). The neighborhood is bounded by Lincoln Avenue, Apple Street, Stranahan Street, the City of Pittsburgh Eastern Boundary, Standard Avenue, Frankstown Avenue, North Murtland Street and Chaucer Street.
- (13) Homewood West. All property within boundary of the Homewood West neighborhood (as defined by Department of City Planning boundary). The neighborhood is bounded by Washington Boulevard, Lincoln Avenue, Chaucer Street, North Murtland Street, Susquehanna Street, North Dallas Avenue and the East Busway.
- (14) Knoxville. All property within boundary of the Knoxville neighborhood (as defined by Department of City Planning boundary). The neighborhood is bounded by Cedarhurst Street, Amanda Street, Brownsville Road, Wilbur Street, Tarragonna Street, McKinley Park and Beltzhoover Avenue.
- (15) Larimer. All property within boundary of the Larimer neighborhood (as defined by Department of City Planning boundary). The neighborhood is bounded by Negley Run Boulevard, Washington Boulevard, Penn Avenue and East Liberty Boulevard.
- (16) Lincoln-Lemington-Belmar. All property within boundary of the Lincoln-Lemington-

- Belmar neighborhood (as defined by Department of City Planning boundary). The neighborhood is bounded by the Allegheny River, the City of Pittsburgh Eastern Boundary, Stranahan Street, Apple Street, Lincoln Avenue and Washington Boulevard. The neighborhood is also bounded by Pennsylvania Route 28, Fox Chapel Road, the Allegheny River and Delafield Avenue.
- (17) Lower Lawrenceville. All property within boundary of the Lower Lawrenceville neighborhood (as defined by Department of City Planning boundary). The neighborhood is bounded by the Allegheny River, 40th Street, Ewing Street, the Bloomfield Bridge, the East Busway and 33rd Street.
- (18) Manchester. All property within boundary of the Manchester neighborhood (as defined by Department of City Planning boundary). The neighborhood is bounded by California Avenue, Allegheny Avenue, Western Avenue and Chateau Street.
- (19) Marshall-Shadeland. All property within boundary of the Marshall Shadeland neighborhood (as defined by Department of City Planning boundary). The neighborhood is bounded by the McKees Rocks Bridge, Ohio River Boulevard, McClure Avenue, California Avenue, Bainton Street, Richardson Avenue, McClure Avenue, Woods Run Avenue, Riverview Park, hillside, Brighton Road, Island Avenue, Marshall Avenue, Island Avenue and the Ohio River.
- (20) Mount Oliver. All property within boundary of the Mount Oliver neighborhood (as defined by Department of City Planning boundary). The neighborhood is bounded by Parkwood Road, Mountain Street, Wagner Street and Otilla Street.
- (21) Perry South. All property within boundary of the Perry South neighborhood (as defined by Department of City Planning boundary). The neighborhood is bounded by Interstate 279, Milroy Street, Perrysville Avenue, Marshall Avenue, Marshall Road, Riverview Park, Highwood Cemetery, Brighton Road, O'Hern Street, Perrysville Avenue, Federal Street, Lafayette Street, Biggs Street, Glenross Street, Hazelton Street and Suffolk Street.
- (22) Sheraden. All property within boundary of the Sheraden neighborhood (as defined by Department of City Planning boundary). The neighborhood is bounded by the Corliss Tunnel, Chartiers Avenue, Straka Street, Berry Street, Middletown Road, Ashtola Way, Alora Way, Oetting Street, Nathan Way, Sheraden Park, Stadium Street, Gilroy Street, Calumet Street and hillside.
- (23) Spring Garden. All property within boundary of the Spring Garden neighborhood (as defined by Department of City Planning boundary). The neighborhood is bounded by the City of Pittsburgh Eastern Boundary, Wicklines Lane, Spring Garden Avenue, Lager Street, hillside, Bohemian Way, hillside, Kufner Way, Vinial Street, Concord Street, Itin Street, Diana Street, hillside, Homer Street, Firth Street, hillside and the City of Pittsburgh Northern boundary.
- (24) Upper Hill. All property within boundary of the Upper Hill neighborhood (as defined by Department of City Planning boundary). The neighborhood is bounded by Ridgway Street, Blessing Street, Bigelow Boulevard, Centre Avenue and Herron Avenue.
- (25) Upper Lawrenceville. All property within boundary of the Upper Lawrenceville neighborhood (as defined by Department of City Planning boundary). The neighborhood is bounded by the Allegheny River, 62nd Street Bridge, 57th Street, Christopher Street, Duncan Street, 56th Street, Wickliff Street, 55 ½th Street, Celadine Street, 54th Street, Camelia Street, 53rd Street, McCandless Street, Celadine Street, Stanton Avenue and 51st Street.
- (26) West End. All property within boundary of the West End neighborhood (as defined by Department of City Planning boundary). The neighborhood is bounded by Elliott Street, Steuben Street, West Carson Street, Main Street, Saw Mill Run Boulevard, Interstate

279, hillside, Greentree Street, Kearns Street, Freewalt Street, McCartney Street, Noblestown Road, Main Street, Steuben Street and Planet Street.

(Ord. 7-1980, eff. 4-18-80; Ord. 14-2004, § 2, eff. 9-21-04; Ord. No. 9-2007, § 1, eff. 6-15-07; Ord. 15-2007, §§ 1, 2, eff. 10-26-07; Ord. No. 24-2007, § 1, eff. 12-13-07)

§ 265.02 BOUNDARIES.

Council has determined as a fact that Wards Nos. 1 through 32 of the City of Pittsburgh, respectively, constitute "deteriorated neighborhoods" within the purview of Act 42 of 1977; and the wards also constitute "deteriorating areas" under that same act and within the definitions contained in this Chapter.

(Ord. 7-1980, eff. 4-18-80)

§ 265.03 EXEMPTION FOR IMPROVEMENTS.

Any persons making improvements to deteriorated residential property may apply for and receive tax exemption upon the improvements in the manner and in the amounts hereinafter provided.

- (a) The exemption from taxes shall be limited to the additional assessed valuation attributable specifically to the actual cost of improvements to deteriorated property not to exceed the maximum cost per dwelling unit specified in subsection (b) hereof or up to any lesser multiple of one thousand dollars (\$1,000.00). The exemption from taxes shall be limited to that portion of the increased assessment attributable to the improvement or improvements and for which a separate assessment has been made by the Board of Property Assessment Appeals and Review and for which an exemption has been specifically requested. If the actual cost of improvements, as determined by the Board, exceeds the maximum cost per dwelling unit, the Board shall decrease the additional assessment valuation eligible for exemption from taxation in the same proportion as the actual cost of improvements exceeds the maximum cost.
- (b) The maximum cost per dwelling unit shall be nineteen thousand eighty-six dollars (\$19,086.00) for improvements made during 1979. Maximum costs for improvements made during each subsequent year shall be determined by the Treasurer. It shall be the maximum cost for the preceding year multiplied by the ratio of the United States Bureau of the Census New One-Family Houses Price Index for the current year to the Index for the preceding year. The date of making the improvement shall be the date of the issuance of the building permit improvement record or other required notification of construction. No tax exemption shall be granted under the provisions of this Chapter for any improvements to any dwelling unit in excess of the maximum cost specified herein.
- (c) If a deteriorated property is granted tax exemption pursuant to this Chapter, the improvement shall not, during the exemption period, be considered as a factor in assessing other properties.
- (d) If the exemption request authorized pursuant to paragraph (a) is approved by the Treasurer, the exemption shall be in force only in the three (3) consecutive years in which additional taxes are imposed upon the increased assessment attributable to the improvements for which the exemption was requested, and the exemption shall terminate thereafter.
- (e) In lieu of the exemption authorized pursuant to subsection (a) of this section, for deteriorated properties located within the Uptown District, the Downtown District or any of the Targeted Growth Zones, as defined in [Section 265.01](#) of this Chapter, for

exemption applications filed on or after July 1, 2007 through June 30, 2017, the exemption from taxes shall be limited to the additional assessed valuation attributable specifically to the actual cost of improvements to deteriorated property not to exceed the maximum cost per dwelling unit of two hundred fifty thousand dollars (\$250,000.00), or up to any lesser multiple of one thousand dollars (\$1,000.00). The exemption from taxes shall be limited to that portion of the increased assessment attributable to the improvement or improvements and for which a separate assessment has been made by the Board of Property Assessment Appeals and Review and for which an exemption has been specifically requested. If the actual cost of improvements, as determined by the Board, exceeds the maximum cost per dwelling unit, the Board shall decrease the additional assessment valuation eligible for exemption from taxation in the same proportion as the actual cost of improvements exceeds the maximum cost. If an exemption request is approved by the Treasurer pursuant to this subsection, the exemption shall be in effect for the ten (10) consecutive years in which additional taxes are imposed upon the increased assessment attributable to the improvements for which the exemption was requested, and the exemption shall terminate thereafter.

(Ord. 7-1980, eff. 4-18-80; Ord. No. 9-2007, § 2, eff. 6-15-07; Ord. No. 11-2012, § 1, eff. 6-28-12)

§ 265.04 EXEMPTION FOR RESIDENTIAL CONSTRUCTION.

Persons responsible or liable for the payment of taxes due on residential units in any of the deteriorated areas enumerated in [§ 265.02](#), may apply for and receive tax exemption on new residential construction in accordance with the procedures and schedules as herein provided:

- (a) Any exemption from taxes shall be limited to the assessed valuation attributable to the cost of construction of the new residential unit, not in excess of the uniform maximum cost per dwelling unit specified in subsection (b) hereof. If the actual cost of construction, as determined by the Board, exceeds the maximum cost per dwelling unit, the Board shall decrease the assessment valuation eligible for exemption in the same proportion as the actual cost of the construction exceeds the maximum cost.
- (b) The uniform maximum cost per dwelling unit shall be fifty-one thousand three hundred dollars (\$51,300.00) for 1979. For subsequent years, the uniform maximum cost per dwelling unit shall be determined by the Treasurer. It shall be the amount produced when the maximum cost for the preceding year is multiplied by the ratio of the U.S. Bureau of the Census New One-Family Houses Price Index for the current year to the Index for the preceding year. The date of the construction shall be the date of receipt by the Board of the notification of completion of construction from the applicant in writing on a form prescribed by the Board.

EXAMPLE:

Multiplicand -	Maximum cost for the preceding year
× Multiplier -	Ratio of U.S. Bureau of Census New One-Family Houses Price Index for the current year to the Index for the preceding year

= Product -	Maximum cost for current year

This product shall be determined by the Treasurer.

- (c) The maximum assessment eligible for the exemption of taxes shall be the assessed valuation attributable to the uniform maximum cost of construction.
- (d) Any exemption from taxes on the eligible amount of assessed valuation attributable to new construction shall commence in the tax year immediately following the year in which the building permit is issued, providing that an assessment valuation attributable to the new construction has been certified by the Board. If no certification has been made in the year following issuance of the building permit, then exemption shall commence in the first year in which real property taxes are assessed and imposed on residential units following construction.
- (e) Except as to exemption applications filed pursuant to paragraph (g) of this section, for the first, second and third year for which newly constructed residential unit or units would otherwise be taxable, one hundred (100) percent of the eligible assessment on buildings shall be exempt from taxation; after the third year the exemption from taxation shall terminate.
- (f) If a residential unit is granted exemption from taxes under this Chapter, that property shall not be considered as a factor in assessing the value of other properties in the same area during the period in which the exemption exists.
- (g) For exemption applications filed on or after July 1, 2007 through June 30, 2017 on new residential construction in the Uptown District, the Downtown District or any of the Targeted Growth Zones, as defined in [Section 265.01](#) of this chapter, the uniform maximum cost per dwelling unit shall be two hundred fifty thousand dollars (\$250,000.00) per year for a period of ten (10) years. Subject to said uniform maximum cost per dwelling unit, one hundred (100) percent of the eligible assessment on buildings shall be exempt from taxation; after the tenth year, the exemption from taxation shall terminate.

(Ord. 7-1980, eff. 4-18-80; Ord. No. 9-2007, § 3, eff. 6-15-07; Ord. No. 11-2012, § 2, eff. 6-28-12)

265.04.1 TAX CREDIT FOR VISITABLE DESIGN.

- (1) Title and Purpose.
 - (a) Pittsburgh Visitability Design. This Section shall be known as " Tax Credit for Visitability Design."
 - (b) The purpose of this Section is to provide visitable housing to all individuals, with or without disabilities, by offering a tax credit to encourage that new and renovated single-family dwellings and duplexes, tri-plexes, town houses and row houses and adapted reuses of industrial and commercial buildings that are renovated or converted for multi-family residential use, contain the visitability features set forth in this section, which will enhance both visitability and usability for visitors and residents.
- (2) Visitability.
 - (a) Applicability.
 - (1) This Ordinance applies to new construction of, and substantial renovation to, single-family dwellings and duplexes, tri-plexes, town houses and row houses; and adapted reuses of residential, industrial, and commercial buildings that are renovated or converted for residential use.
 - (b) Design requirements.
 - (1) Building Entrances: The residence shall provide at least one (1) no-step entrance approachable by a firm, stable and slip-resistant path with an acceptable slope. The no-step entrance shall have a threshold of no greater than three-fourths ($\frac{3}{4}$) of an inch. The no-step entrance to the residence may be located on any exterior side of the house or an entrance through the integral garage to the visitable level of the residence.
 - (i) Entry doors must have a minimum clear open width of at least thirty-two

(32) inches and be equipped with lever handle hardware.

- (2) Interior Doorways: All interior doorways, excluding closets and doors to basement stairs, on the visitable entry floor must have a minimum clear open width of thirty-two (32) inches.
 - (3) Interior Circulation Paths: Circulation paths into and throughout the visitable entry level floor of the dwelling must be at least thirty-six (36) inches wide.
 - (4) Powder Rooms and Bathrooms: Each housing unit must have a minimum of one (1) powder room on the visitable entry level floor, with a thirty-inch by forty-eight-inch minimum clear floor space contiguous to the water closet and the lavatory. The clear space under a lavatory can be included in this measurement and clear spaces contiguous to the water closet and lavatory are permitted to overlap. Powder room doors on the visitable floor must have lever door hardware. All bathrooms and powder rooms through-out the residential unit shall have reinforcement of at least two (2) inches by eight (8) inches of blocking between the studs placed inside the walls for easy installation of grab bars if needed. Reinforcement shall be capable of supporting grab bars that resist shear and bending forces of two hundred fifty (250) pounds or greater. Blocking should be centered at thirty-four (34) inches from and parallel to the finished floor. In renovated homes only the walls in the powder room or bathrooms on the visitable floor and those on floors that have the stud walls exposed as part of the renovation process need to comply with this paragraph.
 - (5) Light Switches: Light switches may not be higher than forty-eight (48) inches above the finished floor. If there are two (2) controls for the same light, only one (1) need be compliant with these standards. In renovated homes only the switches on the visitable floor need to comply with this paragraph unless the electrical renovations extend beyond the visitable floor.
 - (6) The path from either a vehicle parking area or a pedestrian entrance to the lot: The path to the no step entrance shall be firm, stable and slip-resistant. The grade of the path shall not exceed the following acceptable slopes: 1:8 for slope length of five (5) feet or less with a maximum rise of seven and one-half (7.5) inches; 1:10 for slope length twelve (12) or less with a maximum rise of 14.4 inches; and 1:12 for slope length more than twelve (12) feet. If the average slope of the property line along and contiguous to the public right-of-way exceeds the slope of 1:12, the slope of the exterior path may be greater, if necessary, to provide access to the no-step entry, but it may not exceed the average slope of the property line.
- (3) Tax Credits for visitability design.
 - (a) Any persons installing the design features contained in this Section, upon review and certification by the Bureau of Building Inspection, may apply for and receive tax credit upon the improvements above that which is authorized in [Section 265.04](#)
 - (b) Persons responsible or liable for the payment of taxes due on a dwelling unit which contains visitable design features, as outlined herein, may apply for and receive a tax credit for property taxes assessed upon the eligible improvements to a dwelling unit in an amount not to exceed two thousand five hundred dollars (\$2,500.00).
 - (4) Procedures for obtaining tax credit.
 - (a) The request for tax credit must be in writing on a form prescribed by the Treasurer for the City of Pittsburgh, and made available by the Development and Administration Review Division of the Department of City Planning.
 - (b) Development and Administration Review Division of the Department of City Planning,

Bureau of Building Inspection and Treasurer's Office upon request shall provide anyone applying for a building permit general information, written in a form easily understood by the general public that details the benefits of visitability design and the City's incentives for installing the principle features.

- (c) At the time a person applies for a building permit for new residential construction or improvement, the applicant shall notify the Development and Administration Review Division of the Department of City Planning of the applicant's intent to install the visitable design features required in this Chapter, including the submission of drawings and specifications documenting such intention. When the visitable design improvements or proper construction has been completed, the property owner must notify the Bureau of Building Inspection so that an inspection of the improvements or construction may be made. When the Bureau has completed its inspection and verified the installation of the visitability design features, it shall provide a certificate of completion in addition to any other certificates as may be required by this Code.
 - (d) The eligible property owner shall apply for the tax credit with the Development and Administration Review Division of the Department of City Planning, on a form obtained from the Development and Administration Review Division of the Department of City Planning, within thirty (30) days of receipt of the certificate of completion.
- (5) Application of tax credit.
- (a) The Office of Property Assessment shall review the application for completeness, and if done so in accordance with this Section, shall notify the Taxing Bodies that the property qualifies for the Visitability The Treasurer shall give a credit in the amount designated herein toward property taxes levied by the City on the visitable residence. Such credit shall be in addition to those exemptions or credits granted in other Sections of this Chapter. Tax Credits applications not processed by November 30 will not take effect until the year following the next year.
 - (b) Any tax credit shall be limited to the assessed valuation attributable to the cost of the new construction or renovation.
 - (c) The credit shall not exceed two thousand five hundred dollars (\$2,500.00) in total over five (5) years, or the total amount of the increased amount of property taxes owed during the first five (5) years from when the tax credit is approved, whichever is less.
- (6) Reporting on impact.
- (a) The Department of City Planning will submit an annual report to City Council outlining both the cost and effectiveness of this tax credit on visitable housing.
- (7) Effective date.
- (a) The effective date of this Ordinance shall be the later of ninety (90) days after passage, or following said ninety-day period the date upon which there is enacted into law a statute passed by the General Assembly of the Commonwealth enabling the City of Pittsburgh to authorize the tax credits herein provided for.

(Ord. 14-2004, §§ 1, 3—8, eff. 9-21-04; Ord. 15-2007, § 3, eff. 10-26-07)

§ 265.05 INTER-GOVERNMENTAL CO-OPERATION.

The City may join co-existing local taxing authorities for the purpose of setting up procedures that will implement the intention of this Chapter, and the City may cooperate with such co-existing taxing bodies to encourage the residential construction in deteriorating areas of the City which this Chapter is intended to bring about, except as restricted by this Chapter or any other ordinance, act of legislature, or law of the Federal government. The City may also cooperate with other municipal governing bodies to establish uniform maximum exemption.

(Ord. 7-1980, eff. 4-18-80)

§ 265.06 PROCEDURES FOR OBTAINING EXEMPTION.

Within one hundred eighty (180) days from the date when a person secures the initial building permit for making the improvements to deteriorated residential property or for the construction of a new residential unit or units in a deteriorated area, for which that person intends to request exemption from taxation, that person may apply to the Allegheny County Board of Property Assessment, Appeals and Review for exemption of the taxes that would otherwise be imposed on the basis of the assessed valuation of that property in the following manner:

- (a) At the time the building permit is obtained, a form prescribed by the Board should be obtained from the Treasurer or Bureau of Building Inspection and submitted to the Board.
- (b) The request for exemption must be in writing and certified on that form setting forth the following information:
 - (1) The date the building permit was issued for construction or rehabilitation.
 - (2) The type of improvements or the number and type of residential units for which exemption is requested.
 - (3) The summary of the plan of the improvements or the plan of the construction of the new residential units.
 - (4) The actual cost of the improvements or the actual cost of residential units.
 - (5) The additional information as the Treasurer may require.
- (c) When the improvements or proper construction has been completed, the property owner must notify the Board and notify the Bureau of Building Inspection so that an inspection of the improvements or construction may be made. When the Bureau of Building Inspection has completed its inspection, the Board will assess the property in question for purposes of calculating the amount of the assessment eligible for tax exemption under this Chapter.
- (d) The Assessor shall send the required form to the Treasurer certifying the amount of the increase in assessment attributable to the improvement or to the new construction, and the amount of the assessment eligible for exemption. The Treasurer shall then exonerate that portion of the increase and refund the amount of the taxes attributable to the exemption up to the eligible maximum amount.
- (e) Appeals from the assessment may be taken by the taxpayer or by the City as provided by law.
- (f) The Chief of the Bureau of Building Inspection is hereby authorized and directed to provide to all persons obtaining a building permit for improvements to or the construction of a residential dwelling unit(s) the following information which shall be prescribed by the Treasurer:
 - (1) An application form for the exemption
 - (2) Instructions to complete the application, written in a form easily understood by the general public.
 - (3) General information written in a form easily understood by the general public, that details the benefits to be derived from this exemption.
- (g) No exemption shall be granted and any existing exemption shall be revoked if and for so long as there exists any tax delinquency with respect to the property or property owner.

(Ord. 7-1980, eff. 4-18-80; Am. Ord. 39-1995, eff. 12-31-95; Ord. No. 24-2007, § 2, eff. 12-13-07)

§ 265.07 TRANSFERABILITY.

The exemption from taxes authorized by this Chapter shall be upon the property exempted and shall not terminate upon the sale, exchange or other alienation of such property unless otherwise provided.

(Ord. 7-1980, eff. 4-18-80)

§ 265.08 MAINTENANCE OF ACCRUED RIGHTS.

Nothing contained in this Chapter shall be construed to waive, alter or terminate any rights which have accrued under Ordinance No. 596 of 1972; nor shall the repeal of Ordinance No. 596 of 1972 by this Chapter terminate, by operation of law, any matter presently pending or in litigation pursuant to its provisions.

(Ord. 7-1980, eff. 4-18-80)

§ 265.09 EFFECTIVE DATE.

The provisions of this Chapter shall become effective January 1, 1980, and shall remain in effect from year to year thereafter.

(Ord. 17-1981, eff. 5-29-81)

§ 265.10 PROSPECTIVE APPLICATION.

It is the intent of Council that this Chapter not be applied retroactively, and that no improvements or construction for which a building permit has already been issued be eligible for exemption.

(Ord. 7-1980, eff. 4-18-80)

§ 265.11 REPORTS TO COUNCIL.

Reports containing information relative to the amount of each exemption and the property owner received each exemption shall be presented by the Treasurer to Council on March 31, June 30, September 30 and December 31 of each calendar year in which this Chapter is in effect.

(Ord. 7-1980, eff. 4-18-80)

No. 939

AN ORDINANCE

Supplementing the Pittsburgh Code, Title Six-Conduct by adding a new Chapter 623 – “Pittsburgh Visitability Design” to require new housing, substantially renovated single-family dwellings, duplexes, tri-plexes, town homes and row houses constructed with city assistance, and adapted reuses of industrial and commercial buildings that are substantially renovated or converted for multi-family residential use with city assistance, to meet a minimum standard of visitability.

WHEREAS, no statutory requirements presently exist on a federal, state or local level that require new single family homes and duplexes, tri-plexes, town houses and row houses, or those undergoing major reconstruction, and adapted reuses of industrial and commercial buildings that are substantially renovated or converted for multi-family residential use with city assistance, to install visitable features for persons with and without disabilities; and

WHEREAS, people with disabilities and their immediate families are often isolated to their own homes because of insurmountable barriers at the homes of their acquaintances, and often experience difficulty in locating a home to rent or buy that meets their needs; and

WHEREAS, certain features in construction make new houses visitable, and in many cases livable, and requiring that newly built and substantially renovated houses meet at least this minimum standard of visitability will allow people with disabilities more freedom of visiting other homes and of locating a home themselves to rent or buy; and

WHEREAS, Allegheny County has the second highest proportion of senior citizens of any county in the United States. And as people get older, many become trapped by the physical barriers of their home. Many seniors cannot get out of their homes without assistance to seek medical care, and attend to daily living needs. This creates a serious threat to public health, and a heavy cost of social services.

WHEREAS, installing visitability features in newly constructed or substantially renovated homes is far more cost effective than making necessary accessibility modifications at a later time.

WHEREAS, the added cost of providing these visitability standards is minimal and is far outweighed by the public good they have the potential to provide.

Be it resolved that the Council of the City of Pittsburgh hereby enacts as follows:

Section 1. Supplementing the Pittsburgh Code, Title Six-Conduct – by adding Chapter 623, “Pittsburgh Visitability Design” to require new and substantially renovated single-family dwellings, duplexes, tri-plexes, town homes and row houses constructed with city assistance, and adapted reuses of industrial and commercial buildings that are substantially renovated or converted for multi-family residential use with city assistance, to meet a minimum standard of visitability.

Chapter 623

Title and Purpose

- (a) Pittsburgh Visitability Design Ordinance – This Chapter shall be known as the Pittsburgh Visitability Design Ordinance.”
- (b) The purpose of this Ordinance is to guarantee visitable housing to all individuals, with or without disabilities, by requiring that new and substantially renovated single-family dwellings and duplexes, tri-plexes, town houses and row houses constructed with city assistance of any kind, and adapted reuses of industrial and commercial buildings that are substantially renovated or converted for multi-family residential use with city assistance, contain the visitability features set forth in this Ordinance, which will enhance both visitability and usability for all residents.

Section 2. Definitions

- (a) “Visitability”- the presence of architectural design features which allow basic access and use of a residential dwelling by people with significant mobility impairments, and which minimize the cost of full accessibility modifications, if necessary, at a later time.
- (b) “City Assistance” – funding or assistance from the City of Pittsburgh, or any agent thereof, including the Urban Redevelopment Authority (URA), through any of the following means:
 - (1) receipt of a building contract or similar contractual agreement involving any city-funded program or fund, including but not limited to the URA or similar programs;
 - (2) real estate purchased, leased or donated from the City of Pittsburgh or any agency thereof;
 - (3) receipt of preferential tax treatment, bond assistance, mortgage assistance, or similar financial advantages derived from the City of Pittsburgh, or any agency thereof;
 - (4) dispersal under city auspices of any Federal or State construction

funds; and

(5) beneficiary of city-funded property development infrastructure such as grading, development, decontamination, sanitation systems, sewers and other benefits; and

(6) receipt of any other funding or financial benefit from the City of Pittsburgh, or any agency thereof.

(7) “City Assistance” does not include tax abatements under the LERTA program, or the URA’s Pittsburgh Home Rehabilitation Program, Pittsburgh Home Ownership Program, Home Emergency Loan Program, Home Accessibility Program for Independence, or Pittsburgh Party Wall Program; provided that beneficiaries of these programs are given information concerning universal design and visitability principles.

- (c) “Substantially renovated” – property alterations which involve the reconstruction of interior living space and which in total cost exceed \$40,000 or 75% of the assessed value of the property, whichever is greater.
- (d) “Circulation path” – An exterior or interior way of passage from one place to another for pedestrians.
- (e) “Significant mobility impairment” – The disability of a person who needs assistive mobility technology in the form of a wheelchair, walker, crutches or similar device to move along a circulation path.
- (f) “Powder room” – A toileting room having at a minimum, a water closet and a lavatory.

Section 3. Visitability

- (a) Applicability –

(1) This Ordinance applies to all newly constructed, or substantially renovated single-family dwellings and duplexes, tri-plexes, town houses and row houses after the effective date of this article that are constructed with city assistance; and adapted reuses of industrial and commercial buildings that are substantially renovated or converted for multi-family residential use with city assistance.

- (b) Design Requirements –

(1) *Building Entrances*: Each unit must have at least one no-step entry,

approachable by a firm, stable and slip resistant circulation path (walkway, garage, or ramp) w/ a slope of no greater than 1:12. Where the average slope of the property line along and contiguous to the public right of way exceeds a slope of 1:12, the slope of the circulation path may be greater, if necessary to provide access to the entry, but may not exceed the average slope along that property line. Entry doors must have lever handle hardware and have a clear open width of at least 32". If the conditions of the lot are not compatible with a circulation path design usable by persons with significant mobility impairments, builder may apply for a waiver with the Department of City Planning as provided in Section 4 of this Ordinance.

(2) *Interior Doorways:* All interior doorways must have a clear open width of at least 32", except for those of closets less than 15-sq. feet. All must have lever door hardware.

(3) *Interior Circulation Paths:* Circulation paths into and throughout the visitable entry level floor of the dwelling must be at least 36" wide and have a surface that is firm, stable and slip resistant.

(4) *Powder Room:* Each housing unit must have at least one powder room on the visitable entry level floor, with a 30" by 48" minimum clear floor space contiguous to the water closet and the lavatory, the clear space under a wall-hung lavatory can be included in this measurement. All bathrooms throughout the unit must have reinforcement in the walls adjacent to water closets, bathtubs and showers for the installation of grab bars if needed.

(5) *Environmental Controls:* Environmental controls, including light switches, electrical outlets, and thermostats, must be at accessible heights. Outlets may not be lower than 15" above the finished floor and switches and thermostats may not be higher than 48" above the finished floor. If there are two controls for the same appliance in a room (for example, two light switches), only one need be in compliance with these standards.

(c) Non-compliance –

(1) No City Assistance may be awarded in connection with housing covered by this Ordinance unless the scope of work set forth in the application complies with the design requirements set forth in this section

(2) No Building Permit shall be issued in connection with housing covered by this Ordinance unless the scope of work set forth in the application complies with the design requirements set forth in this section.

(3) No Occupancy Permit shall be issued in connection with housing covered by this Ordinance unless the requirements of this Ordinance have been met.

Section 4. Waiver of Visitability Regulations

(a) Any or all of the requirements of Section 3 may be waived or modified by a committee appointed by the Director of the City of Pittsburgh Planning Department through the issuance of a "Visitability Waiver." The application for said waiver must demonstrate that, due to unusually difficult circumstances such as the topography of the lot, limited buildable area, or limited size and configuration of an existing building, compliance can only be accomplished at great expense or hardship of the property owner. The waiver of one or more requirements under Section 3 does not remove the obligation to comply with the other requirements of Section 3.

(b) The Director of the City Planning Department shall appoint a 5-member committee to review Visitability Waiver requests. This committee shall meet at least once every month and shall include the following persons or their designees:

- 1) the City's Americans with Disabilities Act Coordinator
- 2) a representative of the City-County Task Force of Disabilities,
- 3) an architect licensed by the Commonwealth of Pennsylvania who is familiar with, universal design visitability, the Federal Fair Housing Act, and the Federal Americans with Disabilities Act (ADA),
- 4) a representative of the Pittsburgh community development corporation (CDC) community, and
- 5) an official with the City Bureau of Building Inspection

(c) Requests for Visitability Waivers shall be filed with the City's ADA Coordinator, who shall present all such requests at the next regularly scheduled meeting of the waiver committee. The waiver committee shall review each request and issue a decision within 14 days of the meeting. A property owner may appeal the denial of a waiver request to the Director of City Planning.

(d) The waiver committee shall adopt clear standards for the granting of waivers, and shall make those standards available to agencies that award City Assistance and to the public upon request. To the greatest extent possible, the waiver standards shall be designed to give property owners clear and understandable guidelines for determining whether they will be granted an exemption in a particular situation.

(e) Yearly reports shall be made to City Council of the numbers of Waivers requested and granted, and the basis thereof. Within two years of the effective date of this Ordinance, the waiver committee shall present City Council with a

critical review and findings evaluating the effectiveness of this Ordinance. The waiver committee's report shall include any recommended changes to this Ordinance or to waiver standards that in the opinion of the committee would improve the effectiveness of this Ordinance.

Section 5. Effective Date

(a) The effective date of this Ordinance shall be July 1, 2003.

..Title: An Ordinance supplementing the Pittsburgh Code, Title Six-Conduct by adding a new Chapter 623—“Pittsburgh Visitability” to require new housing and substantially renovated single-family dwellings, duplexes, tri-plexes, town homes and row houses constructed with city assistance to meet a minimum standard of accessibility.

WHEREAS, no statutory requirements presently exist on a state or local level that require new single family homes and duplexes, tri-plexes, town houses and row houses, or those undergoing major reconstruction, to install accessible features for persons with disabilities; and

WHEREAS, people with disabilities and their immediate families are often isolated to their own homes because of insurmountable barriers at the homes of their acquaintances, and often experience difficulty in locating a home to rent or buy that meets their needs; and

WHEREAS, certain features in construction make new houses visitable, and in many cases livable, and requiring that newly built and substantially renovated houses meet at least this minimum standard of accessibility which will allow people with disabilities more freedom of visiting other homes and of locating a home themselves to rent or buy; and

WHEREAS, Allegheny County has the second highest proportion of senior citizens of any county in the United States. And as people age, many become trapped by the physical barriers of their home. Many seniors cannot get out of their homes without assistance to seek medical care, and attend to daily living needs. This creates a serious threat to public health, and a heavy cost of social services.

WHEREAS, the added cost of providing these accessibility standards are far outweighed by the public good they have the potential to provide.

Be it resolved that the Council of the City of Pittsburgh hereby enacts as follows:

Section 1. Supplementing the Pittsburgh Code, Title Six-Conduct—by adding Chapter 623, “Pittsburgh Visitability” to require new housing and substantially renovated single-family dwellings, duplexes, tri-plexes, town homes and row houses constructed with city assistance to meet a minimum standard of accessibility.

Chapter 623

Title and Purpose

- (a) Pittsburgh Visitability Ordinance – This Chapter shall be known as the “Pittsburgh Visitability Ordinance.”
- (b) The purpose of this Ordinance is to guarantee accessible housing to all individuals, with or without disabilities, by requiring that new and substantially renovated single-family dwellings and duplexes, tri-plexes, town houses and row houses constructed with city assistance of any kind contain the accessibility

features set forth in this Ordinance, which will enhance both visitability and usability for all residents.

Section 2. Definitions

- (a) “Accessibility” – the ability to approach, enter, utilize and exit a domicile with relative ease, as well as, operate standard environmental controls and other necessary, everyday devices found in the domicile.
- (b) “City Assistance” – funding or assistance from the City of Pittsburgh, or any agent thereof, through any of the following means:
 - (1) receipt of a building contract or similar contractual agreement involving any city-funded program or fund, including but not limited to the Urban Redevelopment Authority (URA) or similar programs;
 - (2) real estate purchased, leased or donated from the City of Pittsburgh or any agency thereof;
 - (3) receipt of preferential tax treatment, bond assistance, mortgage assistance, or similar financial advantages derived from the City of Pittsburgh, or any agency thereof;
 - (4) dispersal under city auspices of any Federal or State construction funds; and
 - (5) beneficiary of city-funded property development infrastructure such as grading, development, decontamination, sanitation systems, sewers and other benefits; and
 - (6) receipt of any other funding or financial benefit from the City of Pittsburgh, or any agency thereof.
- (c) “Substantially renovated” – property alterations which in total cost exceed 75% of the assessed value of the property.

Section 3. Visitability

- (a) Applicability –
 - (1) This Ordinance applies to all newly constructed, or substantially renovated single-family dwellings and duplexes, tri-plexes, town houses and row houses after the effective date of this article that are constructed with aid from the City of Pittsburgh, or any agency thereof.

(b) Design Requirements –

(1) Building Entrances: Each unit must have at least one no-step entry, approachable by a walkway, garage, or ramp w/ a grade of no greater than 1:12. Doors must have lever handle hardware (not knob) and have at least 36” clearance. If topography of lot is not compatible with ramp construction, builder may apply for a waiver with the Department of City Planning.

(2) Interior Doorways: All interior doors must have at least 32” clearance, except for those of closets less than 15 sq. feet. All must have lever door hardware.

(3) Accessible Routes: Accessible routes into and throughout dwelling must be 36” wide.

(4) Bathrooms: Each housing unit must have at least one half bathroom on the accessible entry level floor, with a minimum 60 inch turning radius and ADA compliant grab bars (which may double as towel bars). The clear space under a wall-hung lavatory can be included in this measurement

(5) Environmental Controls: Environmental controls, including light switches, electrical outlets, and thermostats, must be at accessible heights. Outlets may not be lower than 15” above the floor and switches and thermostats may not be higher than 48”. If there are two controls for the same appliance in a room (for example, two light switches), only one need be in compliance with these standards.

Section 4. Waiver of Exterior Disability Accessibility Regulations

(a) The requirements of a no-step entrance in Section 3, (b)(1) Design Requirement (Building Entrances) may be waived or modified by a committee appointed by the City Planning Department through the issuance of an “Exterior Disability Accessibility Waiver.” The application for said waiver will demonstrate that the topography of the lot is not reasonably shaped for the formation of a no-step entrance and can only be accomplished at great expense of the property owner. This does not remove the other accessibility requirements of Section 3.

(b) The City Planning Department shall appoint a committee to review Exterior Disability Accessibility Waiver requests. This committee shall include a City of Pittsburgh resident with a mobility-related disability, and the City’s Americans with Disabilities Act Coordinator.

(c) Yearly reports shall be made to City Council of the numbers of Waivers requested and granted.

Rockford, Illinois, Code of Ordinances >> PART II - LAND DEVELOPMENT REGULATIONS >> Chapter 105 - BUILDINGS AND BUILDING REGULATIONS >> ARTICLE III. - VISITABILITY STANDARDS >>

ARTICLE III. - VISITABILITY STANDARDS

Sec. 105-220. - Scope.

The provisions of this article shall control the design of visitability features in new residential structure constructed with public funds or with financial assistance originating from or flowing through the city.

(Ord. No. 2007-37-O, § 6-101, 2-20-2007)

Sec. 105-221. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Financial assistance means providing public funds intended to be used in paying for labor or materials in the construction of a new structure. It also includes the use of public funds to acquire the parcel of land or the donation of the parcel of land owned by the city, on which a new residential structure is to be constructed. It shall not include the use of public funds for the construction or extension of infrastructure improvements, including, but not limited to, streets, sidewalks, traffic signal improvements, water mains or lines and sanitary or storm sewer systems.

New residential structure means the construction of a new residential structure on a vacant lot. It shall not include additions to or remodeling of existing buildings or urban in-fill development projects without habitable space, as defined by the building code, on the ground level.

Public funds means funds subject to the control or regulation of the city or any of its officers in their official capacity (except for funds provided for down payment and/or closing cost assistance to the home buyer; and employee pension funds).

(Ord. No. 2007-37-O, § 6-102, 2-20-2007)

Sec. 105-222. - Visitability features.

- (a) No step entrance. There shall be at least one entrance (front, side, rear, or through the garage) which has no steps and is served by walks and/or ramps meeting the specifications of law and ordinance.
- (b) VISIBLE route. The required no step entrance shall be accessed via a visitable route that shall meet the following criteria:
 - (1) Grade. Sidewalks and ramps that are part of a visitable route shall have the maximum slope and rise listed below:
 - a. Ramp type 1: a slope of between 1:8 and 1:10 for a maximum rise of three inches.
 - b. Ramp type 2: a slope between 1:10 and 1:12 for a maximum of rise of six inches.
 - c.

Ramp type 3: a slope of 1:12 for a maximum rise of 30 inches. A landing shall be located at the top and bottom of any rise of 30 inches.

- (2) Width. The visitable route shall have a minimum width of 36 inches.
- (3) Landings. Landings in a visitable route shall be not less than 36 inches by 36 inches in size.

Alternate methods to the slope and rise requirements of this section, may be approved by the construction and development services division to achieve the requirements of this section.

- (c) Doors/openings. All doors or openings (with the exception of closet and pantry doors) shall have a minimum net clear width of 32 inches.
- (d) Bathrooms. At least one-half bath shall be required upon the same level as the no step entrance. Each bathroom or other room, upon the same level as the no step entrance, which contains a toilet, bathtub, shower stall, or shower seat, shall have reinforcing in the walls to allow for future installation of grab bars around those fixtures.
- (e) Corridors. Corridors shall be at least 36 inches in width.
- (f) Environmental controls. Wall electrical outlets, light switches, thermostats and other control devices shall be mounted between 15 inches and 48 inches above the finished floor.

(Ord. No. 2007-37-O, § 6-103, 2-20-2007; Ord. No. 2008-093-O, § 105-222, 5-15-2008)

Sec. 105-223. - Waivers.

(a) In cases where site conditions or other restrictions warrant, waivers from this Code may be granted by the city council after consideration and recommendation of the visitability review committee. Said committee shall consist of five members. One member shall be appointed by the department head from each of the following departments/divisions: mayor's office, department of law, managers of the planning and zoning and building code sections of the construction and development services division of the department of community and economic development, and the public works department. The manager of the building code section of the construction and development services division shall serve as the chair of the committee. The review committee shall meet from time to time as needed to process waiver requests.

(b) Requests for a waiver shall be submitted to the manager of the building code section of the construction and development services division. The manager of the building code section of the construction and development services division or his representative shall present the waiver request to the review committee within 45 days of its' receipt by the department. Said waivers will be forwarded to the city council only if the review committee recommends the waiver's approval by majority vote of the members present and voting. If the review committee does not reach a favorable recommendation, the waiver is denied and the committee's findings will be the final administrative decision on such a waiver.

(c) The city council shall have the authority to grant or deny waiver requests, which the review committee forwards to them.

(Ord. No. 2007-37-O, § 6-104, 2-20-2007; Ord. No. 2008-093-O, § 105-223, 5-12-2008)

Sec. 105-224. - New construction.

The provisions of this article shall not apply to those projects that have been approved by the city council for public funds or financial assistance prior to February 27, 2007.

(Ord. No. 2007-37-O, § 6-106, 2-20-2007)

Secs. 105-225—105-243. - Reserved.

I. New 1-3 family homes—detached and rowhouses

A. Features

1. One stepless entrance with a slope no greater than 1:12 and a threshold of no more than ½ inch. This entrance must be on an accessible path that has a firm, even surface such as a concrete sidewalk or a garage floor. It can be located in the front, back or side of the home or through the garage. If the lot cannot be graded with a 1:12 or less slope for the driveway, a steeper driveway is permitted. In these circumstances, the 1:12 or less sloped entrance can proceed from the driveway to the home.

Question: What is the availability of prehung doors with non-ADA type metal ramps and yet have ½ inch thresholds?

2. Each room on the floor served by the stepless entrance, including laundry rooms, but not including closets or pantries, must be served by at least one door that provides 32 inches of clear passage space.
3. A stepless path throughout the floor served by the stepless entrance.
4. Electrical switches and outlets not lower than 18 inches to center, nor higher than 48 inches to center.
5. Lever handles on doors to all rooms on the floor served by the stepless entrance.

B. Portions of certain homes with under-house garages

Garages may be constructed under detached, single-family houses, duplexes and triplexes. In these cases, the floor of the house above the garage is exempt from the access requirements. However, any portion of the house adjacent to the garage must have the access features.

C. Attached townhouses

The above 5 features apply.

Question: What do you do when there is a garage underneath a townhouse?

II. Renovations of single family homes, duplexes, triplexes and townhouses where projected cost is more than 50% of the market value of the home.

In certain circumstances, the home is exempt from the access requirements. (For example, when no new entrances are to be added to the home because there is an addition of a second floor above the existing main floor.)

III. Optional Universal Design items for which a financial benefit may accrue to the home owner.

- A. The owner of any new or substantially renovated home, as described above, may receive an additional one-time property tax reduction from the city in cases where the basic access features are required and in place. This applies to the following items and in the following amounts:
1. A second or third stepless entrance with a ½ inch threshold on an accessible path-- \$200 per entrance.
 2. Blocking in bathroom walls or half-baths on the floor accessed by the stepless entrance near the commode, tub and shower according to ANSI standards (**number**)-- \$25 per bathroom.
 3. A stepless shower large enough to be entered and used by a person using a standard size shower wheelchair. The shower must also have controls at a height reachable from a wheelchair and/or shower chair-- \$350.
 4. Large-print thermostat, oven, dishwasher and clothes washer and dryer controls-- \$20 per appliance.
 5. A home elevator large enough to carry a person in a wheelchair and one standing person, and which leads from the floor accessed by the stepless entrance to an upper floor of the home-- \$700.
 6. Walk-in closets vertically arranged in such a way, and large enough to accommodate installation at a later time of the above-described in home elevator--\$300.
- B. Process of Inspection
- In order to receive the tax reduction, the owner of the new or renovated home, which already includes the required features mentioned in Section I, must arrange for a detailed inspection at the time of the inspection for certificate of occupancy. During this inspection, all items to be claimed from the above option list must be currently in place. The inspector shall note in writing the completed optional items and shall give the home owner a document signed and dated by the inspector. The document should verify the items and the dollar amount eligible for the one-time deduction from the property tax.
- C. The amount of exemption shall not exceed the amount of the property tax for the first year of occupancy. The remaining exemption can be taken in subsequent years.

IV. Enforcement

- A. The _____ (official or department) is charged with enforcing this ordinance.
- B. A copy of the ordinance shall be attached to each permit for new or renovated homes. The applicant for the permit shall sign a document stating that he or she has received a copy of the ordinance. A copy of this signed document shall be maintained in the department records.
- C. At the time of inspection for certificate of occupancy in the homes covered by the ordinance, and for which no waiver has been granted, the inspector shall note the presence or absence of the features listed in Section I.A. above.

V. Waivers

- A. Waivers from the mandatory requirements can be obtained for situations where there are specific difficulties, not described above. (For example, a home built on a flood plain where existing code require entrances to be higher than on regular properties.) The problem must be described in writing and an inspector from the _____ department must make a site visit to verify that the requirements of the ordinance cannot feasibly be met.
- B. A list of the addresses of the properties which have been granted waivers, and the names of the individual and/or companies who have applied for and/or have been granted waivers, must be maintained by the _____ department and available to the public.
- C. The list below provides some examples of situations that would qualify for a waiver:

Introduction

The City Council of Santa Monica has proposed to adopt ordinances on visitability and universal access to housing. As part of that effort, the City commissioned the IDEA Center to complete background research, hold public meetings and develop proposals for city officials and the Council to consider. This report documents the research we completed, describes recommendations for the proposed ordinances and describes the rationale for the recommendations.

The background research included a survey of existing ordinances and related activities nationwide, federal activities related to visitability and international efforts. We also completed a review of the laws that govern accessible housing in the State of California, a review of housing construction in the City of Santa Monica, demographic data and other related information.

To understand terms used in the report, we have included some basic definitions in the following section.

Definitions

Accessibility refers generally to making housing more usable for people who have disabilities. It also refers, more specifically, to compliance with regulations or criteria that establish *minimum* levels of access necessary to accommodate people with disabilities. “Accessible homes” have bathrooms, kitchens, bedrooms, living spaces, emergency warning systems, controls and circulation elements like entries and hallways that are accessible to a broad range of people with disabilities.

Visitability (also visit-ability) is an affordable, sustainable and inclusive design approach for integrating basic accessibility features into all newly built homes. The visitability concept acknowledges that not all features of accessibility carry equal weight. It focuses on the most important features necessary for the most basic level of access to a home. They are as follows:

- Stepless entrance on an accessible path of travel
- Doorways designed to provide 32” of clear space throughout the ground floor
- Basic wheelchair access to at least a half bath on the main floor (getting in, closing the door, getting out)
- Electrical switches and outlets that are easy to reach from a seated position

Universal Access means products and environments that can be used effectively by all people, to the greatest extent possible, without the need for adaptation or specialized design. Universal access improves access for people with a wide range of abilities and also for people who have no disabilities. It is not limited by current code requirements and strives to exceed them wherever possible.

Existing Housing Accessibility Laws which Apply to Santa Monica

There are several laws and regulations, at varying levels of government, which require accessible housing construction in the city of Santa Monica.

At the federal level, Title II of the Americans with Disabilities Act applies to all publicly funded housing. This includes public housing, community development funding, fee waivers, or donations of city property. Title II mandates that 5% of all units in a publicly funded construction project comply with the accessibility guidelines outlined by the Act for public spaces and the Uniform Federal Accessibility Standards for the dwelling units (ADAAG does have criteria for the interior of dwelling units).

Another federal law that applies is the Fair Housing Law. The regulations for this law reference the Fair Housing Act Accessibility Guidelines (FHAAG). This act mandates full accessibility to all multifamily buildings with more than 3 units, including both privately financed and publicly financed projects. All units in buildings that have elevators must be accessible and all ground floor units of walk-up style apartment buildings are also required to be accessible. Some exceptions are made for difficult terrain. Single-family detached homes, townhouses, duplexes, and triplexes are not covered by this Act. The guidelines have seven basic access requirements:

- Accessible building entrances on an accessible route of travel
- Accessible and usable public and common use areas
- Usable doors
- Accessible route into and through the apartment
- Light switches, electrical outlets, thermostats and other environmental controls located in accessible locations
- Reinforced walls for grab bars
- Usable kitchens and bathrooms

At the state level of government, the statewide building code for California has an accessibility section, otherwise known as Title 24. The scope of Title 24 includes:

- All buildings constructed with state, county or municipal funds
- All existing publicly funded buildings when alterations, structural repairs or additions are made to such buildings or facilities
- All buildings occupied 50% or more which are leased or rented for more than two years by any municipality, county or state division of government
- All publicly funded living accommodations – 5% of units wheelchair accessible, 1% accessible to vision impaired, 1% accessible to hearing impaired
- All publicly funded one or two family dwelling units

Access and adaptability requirements apply to all newly privately funded multifamily dwelling units in buildings having three or more dwelling units. There are exceptions for buildings with less than 4 condominiums and multistory dwelling units in non-elevator buildings. The last exception allows buildings with parking on the first floor to have no

accessible units. The Fair Housing Accessibility Guidelines, however, supercede this requirement in buildings with more than 3 units.

Table 1 summarizes the units covered under these various laws and Table 2 describes the number and type of permits issued for different types of housing construction. The last column in Table 1 lists the number of units built in Santa Monica from 1999 through February of 2002 for each type of housing. These tables illustrate that only a very small number of single family homes, if any, were required to be accessible (7% of publicly owned dwelling units). It also illustrates that, even in multifamily buildings, the total number of accessible units constructed could have been no more than about 63 in this time period. Finally, it shows that most of the construction in the city is residential remodeling. In comparison, very few single family homes are constructed each year and many of those constructed may be “tear-downs,” or replacements for older housing.

Table 1
Summary of Accessibility Regulatory Coverage for California

	ADA	FHAAG	CA 24	Number of Units (over last 3+ years)
New Public Multifamily	5%	100% /grd. flr >3 units in bldg.	7%	897
New Private Multifamily		100% /33% >3 units	7% >2 units	
New Public 1 & 2 Family	5%		7%	150
New Private 1 & 2 Family				
Renovations, Public			7%	2942
Renovations, Private (includes partial tear downs)				

Source: Planning Department, City of Santa Monica

Exception: Multistory dwelling units that have parking underneath in non elevator buildings do not have to be accessible according to state law because in most cases there is no ground floor unit.

Table 2
Permits Issued for Housing Construction in California

	New Single Family	New Multifamily	Residential Remodels/additions
1999	41	19 (241 units)	870
2000	55	25 (405 units)	994
2001	47	13 (192 units)	945
2002 (Jan-Feb)	7	3 (59 units)	133

Source: Planning Department, City of Santa Monica

The State of the Art in Visitability

The concept of visitability was developed in the United Kingdom. Eleanor Smith, Director of the advocacy group, Concrete Change, imported the idea to the United States in 1986. Concrete Change and local advocacy groups have promoted the concept around the country.

The following communities have visitability ordinances already in place:

- Atlanta, GA (1992)
- Austin, TX (1998)
- Bolingbrook, IL (1999)
- Urbana, IL (2000)
- Visalia, CA (2001) - voluntary
- Irvine, CA (2000) - voluntary
- Long Beach, CA (2002)
- Pima County, AZ (2002)
- Iowa City, IA (2002)
- Naperville, IL (2002)
- San Antonio, TX (2002)

Except for the ordinances in Naperville, IL and Pima County, AZ, which also apply to privately funded homes, the ordinances passed so far apply to dwelling units that are constructed with public funds. They typically require a stepless entry, 32 inch minimum door widths, reinforced bathroom walls and outlets and switches between 15-48 inches.

We are also aware of at least six other municipalities with visitability ordinances in process. The ordinances all vary in scope and emphasis, but the basic fundamental elements are the same as the existing ordinances. (See Appendix 1a for a complete listing of municipalities striving to adopt visitability.)

There are also a few states that have laws currently in process of development. One state, Kansas, passed a statewide law requiring visitability in 2002. The ordinance applies to all new single family houses, duplexes or triplexes that receive state or federal funds. These homes must have at least one stepless entry, 32 inch minimum door widths, 36 inch wide hallways on the main floor, reinforced bathroom walls and reachable outlets, switches and thermostats. In addition to Kansas, there are currently eight other states that have visitability laws and many others that are working on passing legislation. (See Appendix 1b for a listing of states with visitability initiatives.)

At the federal level, incentives have been developed through the programs of the U.S. Department of Housing and Urban Development (HUD). Visitability incentives were included in the 1999, 2000, and 2001 notices of funding availability for housing programs. Any applications received including visitability features get “favorable attention”. HUD incentives apply to both single and multifamily housing that receive federal subsidy.

There is also a move underway to introduce a Federal law on visitability. A new bill, HR5683: The Inclusive Home Design Act will soon be introduced in the House of Representatives. Representative Jan Schakowsky (D-IL) introduced the bill before the end of Congress’ last session in order to get some initial feedback from legislators and the community. Staff are currently responding to feedback and amending the bill’s language. Time has also been spent getting letters of support from organizations, the development community and other parties to help ensure that a strong network and strategy is in place when it is formally introduced. The bill has already found two co-sponsors.

There has been considerable international interest in visitability as well. As early as 1988, the United Kingdom passed legislation requiring all new home construction to contain visitable features. These include level thresholds, a ground floor accessible bathroom, interior doors with at least 29.5” clear and exterior doors at least 31.5” clear. Additionally, all corridors must be at least 35.5” clear and a ramped approach is required if the grade exceeds 1:20. The unusual dimensions are due to the conversion of metric units to English.

State of the Art in Universal Access to Housing

In 2000, Governor Jeb Bush and the state's Department of Elder Affairs introduced Florida's "Communities for a Lifetime" program, an elder-friendly statewide program to encourage independent living by older people. The initiative recognizes the diverse needs of residents and assists Florida communities in planning and implementing improvements that benefit the lives of everyone. Communities that achieve "elder ready" status are provided with resources and state technical assistance to make necessary improvements in such areas as housing, health care, transportation, law enforcement, accessibility, community education, and recreation.

The Argument for Increasing Access to Community Housing

Why is legislation needed to mandate more access to housing? Can't people who need such housing simply buy an existing house that is accessible, hire a contractor to renovate an existing house, or build a new house?

Most housing in this country is single family housing, a segment of the market which, as Table 1 demonstrates, is not covered by any current access laws. Thus, there are very few accessible single family homes currently available to meet the needs of people with disabilities seeking single family houses. These few houses may not be the type of house or in the location that the person with a disability wants. Modifying a conventional single family home to make it accessible is very expensive because most houses have significant structural limitations to making them accessible. While some accessible multifamily housing exists, most Americans want to live in single family housing. And, while new construction of private multifamily housing in the U.S. has had to be accessible since 1991, in older communities like Santa Monica, few accessible units have been built since that year. In summary, people with disabilities have far fewer housing choices than other citizens. Thus, the housing market currently discriminates against this group, limiting choice and quality, reducing the equity they can establish through real estate, and increasing costs due to the difficulty of making existing homes accessible.

The rapid aging of our population, coupled with the high cost of institutional care and the strong desire of most seniors to remain in their own homes and neighborhoods as long as possible is generating a latent demand for accessible housing. Santa Monica already demonstrates a need for accessible housing; according to the 2000 census, over one-sixth of City residents had a disability and close to one-fourth were age 55 or older (see Table 3). The demand for accessible housing will surely rise as the population grows older since the rate of disability increases significantly after age 50 (see Charts 1 and 2). Because current laws do not apply to existing housing, future housing must be constructed to meet the coming demand. Without accessible housing options, older people will have no choice but to depend on others to help them remain in their own home, at great cost or burden to their families, or, to relocate to institutions or accessible housing somewhere else. If there is not enough suitable accessible housing in their

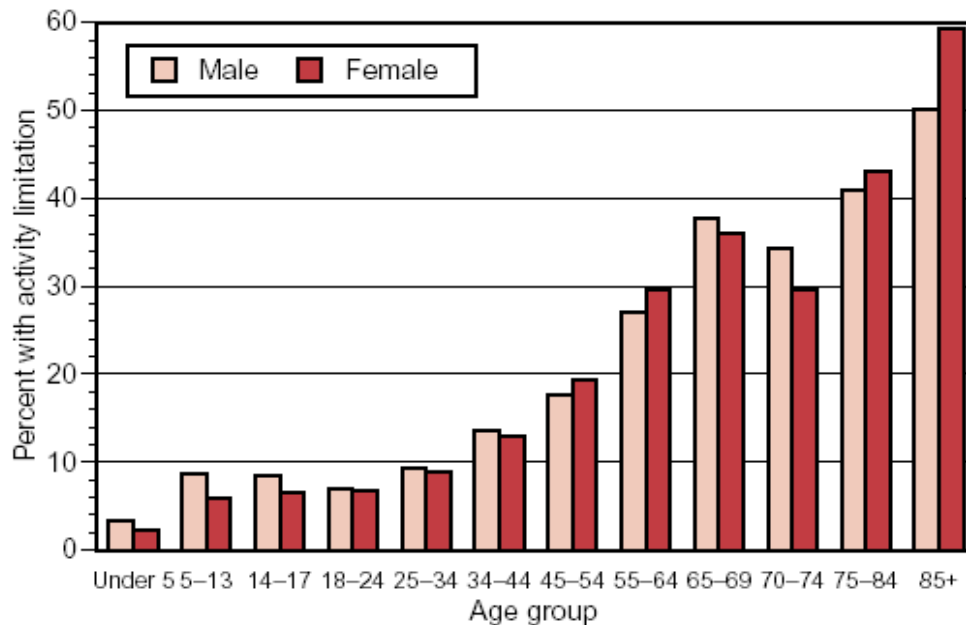
communities, older residents who want or need to relocate must leave the communities that are their homes. Thus, communities serve all their citizens when they adopt ordinances that increase the supply of accessible housing for the current population with disabilities and those in the generations to come. Building accessible housing provides a community resource for all citizens during their lifetime.

Table 3
Santa Monica Population by Age Group, 2000

Age Group	Number	Percent
55-59 years	4445	5.3
60-64 years	3192	3.8
65-74 years	5414	6.4
75-84 years	4501	5.4
85+ years	2163	2.6
Total 55 years and older	19,715	23.5
Total Population	84,084	100

Source: US Bureau of the Census, Census of Population and Housing, 2000

Chart 1
U.S. Disability Rate by Age and Gender

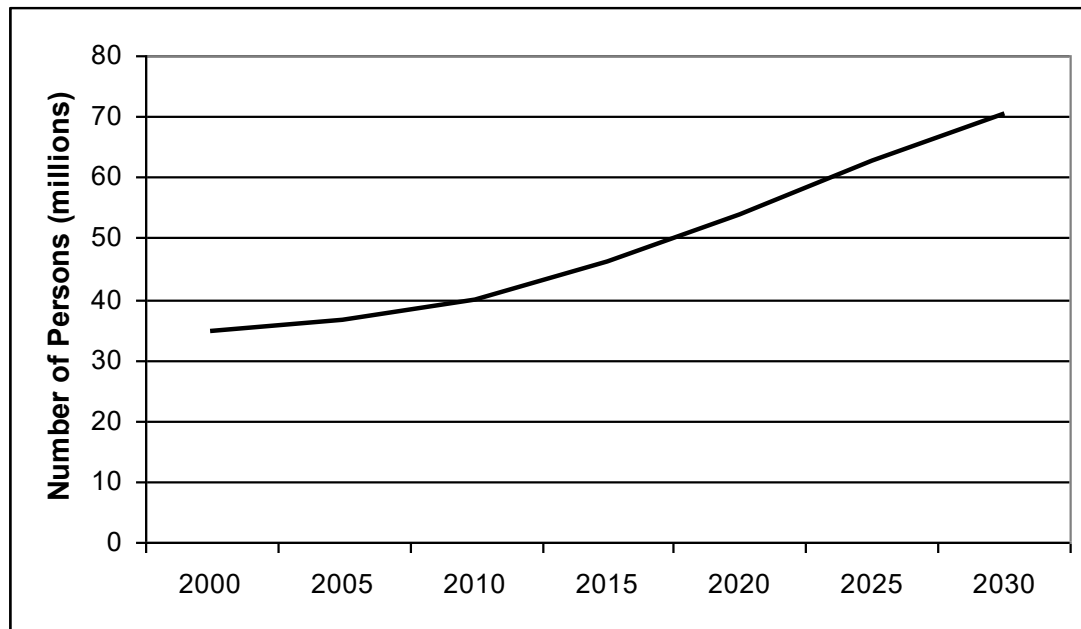


Source: 1992 national Health Interview Survey

Chart 2

Projection of Number of Persons over Age 65

United States, 2000-2030 (in millions)



Source: U.S. Bureau of the Census, Population Projections

The benefits of visitable features to friends and family should also be considered. Currently, people with disabilities may live independently in accessible housing or long term care facilities, but they may not have the ability to visit family or friends. The increase in the size of the older population means that more and more households will have friends and relatives who may need accessibility to visit. And, anyone with a temporary disability, such as a sports injury or a serious illness, benefits from being able to enter their own home or that of a neighbor without barriers. Housing containing visitable features therefore contributes to a sense of community for all citizens. The presence of such housing increases the choices available and makes both housing and communities more usable through the lifespan.

Types of Ordinances

There are several different approaches to visitability ordinances. Ordinances could cover all multifamily housing, all single-family housing, substantial remodeling to either, or only housing constructed using public funds. Ordinances can either require or provide incentives for including visitability or universal access features. There could also be a mix of different approaches, depending on the housing type (i.e. multifamily or other), the type of construction (i.e. new construction, renovation, rehabilitation) or intensity of construction (e.g. gut rehabilitation, minor alterations, repairs and maintenance). In general, the approach that the City takes should give consideration to the projected need

in years to come, the volume of construction of different types and the burden on the building owner.

There are two issues that are important to consider regarding implementation of any ordinance. There may be limits to the scope of ordinances proposed, given the fact that jurisdiction over building code matters is at the state level. Any ordinance that conflicts with the state building code's authority would not be permitted by state law. However, the city is definitely permitted to establish ordinances related to issues like topography, climate, geology, and exterior site conditions. Furthermore, the city is permitted to establish any conditions it deems necessary for public projects. Finally, incentives, even for features that are covered in the building code, are within the jurisdiction of city government.

Ease of administration is also a key concern in adopting a visitability ordinance. It has to be easy for builders, designers and owners to understand and implement. It also has to avoid adding a new burden to the process of permit approvals, already a burdensome task. Finally, it has to be easy to monitor and ensure compliance so that the ordinance will not be routinely ignored. The process of obtaining permits should not change significantly due to the ordinance; plan reviewers should be able to determine whether or not a project is covered by the ordinance and the City and the public should be able to evaluate whether the ordinance has been effective in creating more access to housing in the community.

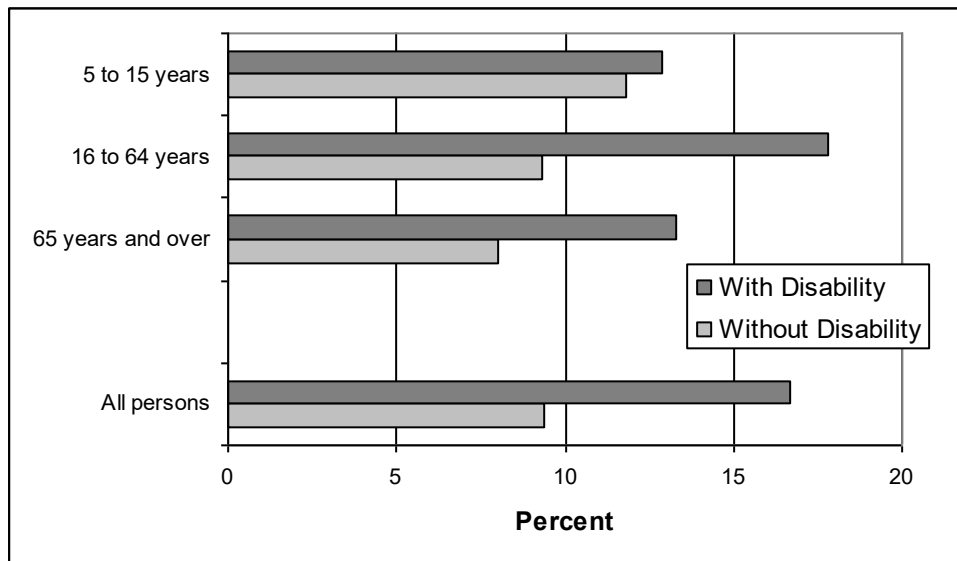
Are ordinances needed for publicly funded housing?

The greatest need for increased access to housing for people who have disabilities is among the low income population; data show that people with disabilities are more likely to live in poverty and have substantially lower incomes than people without disabilities. According to the 2000 Census, the national poverty rate for people with disabilities was 18% compared to 11% for people without disabilities. The poverty status of Santa Monica demonstrates a similar pattern; in 2000, residents with disabilities were almost twice as likely to have incomes below the poverty level as were residents without disabilities (Chart 3). The lower incomes of individuals with disabilities were not simply due to a lower labor force participation rate. Even those individuals with disabilities who did work had incomes well below those of workers without disabilities. The 1995 Survey of Income and Program Participation (SIPP) reported that in the nation as a whole, men with disabilities earned on average only 72% of the amount non-disabled men earned, while women with disabilities earned 73% as much as those without disabilities. Finally, the March 2001 supplement to the Current Population Survey stated that the average earnings in 2000 for full-time workers age 16 to 64 with work disabilities was \$33,109, compared to \$43,269 for similar workers without disabilities.

Chart 3

Percent of Persons Living in Poverty

With Disability v. Without Disability, Santa Monica, 2000



Source: U.S. Bureau of the Census, Census of Population and Housing

As indicated above, this group has the least choice in obtaining housing that suits its needs. Low income people in Santa Monica are served primarily by publicly funded housing programs. Publicly funded new construction of housing in Santa Monica is practically all recently built multi-family. As such, it has to comply with the Fair Housing Law and Chapter 24. Thus, all units in elevator equipped buildings and all ground floor units in walk-ups (unless certain site conditions allow exceptions) would be accessible, even beyond the scope of visitability. However, it is conceivable that single family housing could be constructed in Santa Monica with public funds. All across the country, HOPE VI projects are being built by HUD to replace aging public housing. These projects often replace multifamily housing units with single family units, either row houses or detached structures.

In addition, Community Development Block Grants and other funds, either from federal or local sources, are often used to improve the housing stock for low income residents. Donations of publicly owned land are also used to subsidize the construction of housing, often single family homes, as in the Habitat for Humanity program. These projects currently are covered by Title II of the ADA. At least 5% of these units have to be made accessible. But, such projects provide an opportunity to increase the availability of accessible housing for low income people in the community beyond the small number of units mandated. The creators of the HOPE VI program recognized this opportunity by providing incentives to developers for introducing visitability into their projects. Many other cities are requiring that all single family housing built with public funding be visitable.

Visitability ordinances dealing with publicly funded projects must include a definition of “public funding”. Possible sources of public funding include:

- federal, state, county or municipal grants or loans;
- mortgage insurance subsidized by a government agency;
- donation of city property to developers or owners;
- waivers of utility hookup or other fees
- government incentives - money or tax credits.

Are ordinances needed for privately funded multifamily housing?

While the greatest need for accessible housing is among the low income population, not all people with disabilities have low incomes. Particularly when one considers the economic status of the current and future generation of older people, it is clear that providing access to publicly funded housing alone will not be sufficient to satisfy the need.

New multifamily housing, private or public, is covered by the provisions of the Fair Housing Act and Chapter 24. It is important to align any ordinances that cover *non-multifamily housing* with the Fair Housing Act and Chapter 24. The Fair Housing Act applies accessibility rules to buildings with over 3 units and Chapter 24 of the State Building Code applies accessibility rules to buildings with three or more units. Thus, ordinances for visitability or universal access for non-multifamily housing need to address one and two family dwellings, the only type of housing not yet covered in some way. Although there is no need to adopt any more ordinances for multifamily new construction, there could be some attention given to renovation of these buildings.

The exception in Chapter 24 for buildings with parking underneath is not included in the Fair Housing Act. Without an elevator, such a structure would be required to have all ground floor units accessible. Since there are no ground floor units, the Act would require that the building be equipped with a ramp to the first floor and all units at that level would be required to be accessible, or, an elevator would be required, thereby kicking in the provision that all units in the building be made accessible in elevator equipped buildings. Thus, this particular building type should be addressed specifically in an ordinance that applies to visitability or universal access in renovation of existing multifamily buildings. As in the Fair Housing Act, any ordinances should provide built-in exceptions for such issues as land subject to flooding or impractical sites due to site grading conditions.

Privately Funded Single Family Housing

Thus far, only two cities have required visitability or universal access for privately funded single family housing: Naperville, IL and Pima County, AZ. There have been additional proposals for other cities, but none have been approved as yet. One city, Irvine,

has a voluntary program. In the interests of providing enough accessible housing choices in the future, the City could take the initiative and be one of the first communities to adopt such an ordinance. However, as the data above describes, this may not lead to many new accessible single-family homes in Santa Monica since very few are built. Thus, visitability and universal access ordinances that apply only to single family housing will not be effective in achieving the goal of increasing choice and accommodating the aging of the population.

Ordinances for New or Existing Housing

Although the Fair Housing Act requirements only apply to new construction, in many built up cities like Santa Monica, more renovations projects are undertaken than new construction. Where substantial resources are devoted to a renovation project, adding visitability as a requirement should not be burdensome. In less intensive projects, exceptions could be established to insure that such requirements are not too burdensome for small projects, for example, a limit based on a fixed percentage of the total value of the home (e.g. exceptions if the renovation is below 50% of the appraised value of the home). Alternatively, limits could apply only to those features which apply to access, such as the front door, front porch, or the like. Other conditions related to site grades could also be used to include exceptions where access would not be feasible. Since such provisions could result in unequal burdens for home owners, incentives are more appropriate for renovation or rehabilitation below the level of substantial renovation or rehabilitation.

Implementing the Ordinance

In addition to requirements related to building features, an education and awareness program could be introduced, reinforcing the importance of these features to the general public. It is possible, without such a program, that the introduction of these features could be viewed as a burden to the consumer, rather than a benefit for consumer and friends, family and neighbors. Awareness could be raised about the penalties for non-compliance. A source for public information on results could be coupled with this program.

Due to the restrictions of the state law, it is unclear at this time whether any provisions in addition to a stepless entrance could legally be mandated. Any proposals should be reviewed by the State Architect's office. Alternatively, a proposal could be introduced offering incentive programs, rather than mandated requirements. These incentives would need to be reviewed for effectiveness.

Universal Accessibility

Universal access exceeds the requirements of visitability and is best encouraged through an incentive program. There are several reasons for implementing universal access features. They help reduce the need for institutionalization of aging residents. They help reduce accidents. The sale value of homes is enhanced thereby increasing the tax base. And convenience for everyone is increased, much more so than with visitability alone. Moreover, it is clearly possible, in most homes, to accommodate needs beyond basic visitability.

Many communities and states are already offering incentive programs related to visitability and universal access features. These include Irvine, CA; Freehold, NJ; and the states of Illinois, Georgia, Virginia, Florida, Vermont, and North Carolina. The elements of a few of these incentive programs are outlined below.

The Illinois Accessible Housing Demonstration Grant was enacted in 1999. It allows builders to request funds to cover costs of providing accessibility features in the homes they construct. The intent is to generate builder expertise and public awareness that will lead to acceptance in the construction market. The ultimate goal of the program is to get builders to provide features in at least 10% of the homes in any given housing development. The features that Illinois' program covers are as follows:

- At least one no-step entrance with a 36" wide entrance door
- Interior passages at least 32" wide
- Electrical outlets no lower than 15" and no higher than 48"
- Environmental controls located in accessible locations
- Bathroom walls reinforced for future grab bar installation

The incentive program in Freehold, NJ is very different. Also enacted in 1999, the ordinance allows a permit fee waiver for any project proposing construction of access features. While the precise features considered have not been defined, the city has shown a willingness to waive fees for many common accessibility elements. These waivers have, to date, primarily been used in rehabilitation projects of existing homes, since very little new home construction is taking place in that community. For future new construction, the city has agreed to partial waivers of construction permit fees.

The state of Georgia enacted an incentive program in 1998. It provides a tax credit toward the cost of selected accessibility features for persons with disabilities. The allowable tax credit is based on the actual cost of retrofitting existing single family homes, up to \$125 per feature, to a maximum of \$500. Addressing new construction, a tax credit in the amount of \$500 is available if the new single family home provides accessibility features. The features covered by this ordinance include:

- No-step entrance
- At least a 32" clearance for all interior passages
- Reinforced bathroom walls
- Accessible light switches and outlets

A similar ordinance passed in Virginia in 1999 covers the same architectural features as the Georgia law. The notable difference is that the Virginia law allows anyone, not just individuals with disabilities, to take advantage of credits offered for inclusion of these elements. This ordinance applies only to retrofit projects. The credit covers 25% of the cost of qualifying installations, up to \$500. Unused credits, under this program, can be carried over up to 5 years.

Florida has the oldest ordinance of this kind, dating back to 1989. It is much more limited in scope. The primary focus of this law is on the bathroom area. Under this program, an accessible bathroom must have a 29" clear opening. It is the only U.S. law that mandates a basic access feature in all new homes throughout an entire state.

In 2000, the state of Vermont passed the most progressive universal access law to date. They require all spec-built single or multifamily housing (of the type constructed in sub-developments) to comply with specifically outlined construction standards. There are also requirements for publicly funded projects, and provisions for extending coverage to privately financed housing. In addition, the Vermont Department of Aging and Disabilities can award funds to build a model home demonstrating visitability. The Vermont law addresses the following architectural features:

- At least one 36" wide first floor exterior entrance door
- First floor interior doors a minimum of 34" wide or clear openings at least 32" wide
- First floor door thresholds that are level, ramped or beveled
- Level interior hallways at least 36" wide
- Electrical outlets and environmental controls located at heights that are in compliance with standards adopted by the Vermont access board
- Reinforced bathroom walls

Despite the progressive nature of Vermont's ordinance, it has one unfortunate drawback. As written, the law contains no reference to enforcement procedures or authorities. For this reason, it is largely viewed as an educational tool, rather than an addition to the building code.

North Carolina's incentive program, enacted in 2002, offers a tax credit of \$550 for each accessible dwelling unit conforming to the NC Accessibility Code.

California's Assembly Bill 2787, signed by Governor Davis in September 2002, has yet another differing scope. This ordinance addresses access as a matter of senior housing. It states that any senior housing project constructed after Jan 1, 2002 should include certain design elements to enhance the aging in place without regard to the physical abilities or disabilities of a home's occupants or guests. Developers of senior housing are encouraged, but not required, to implement the principles of universal design or any other design guidelines of future ordinances.

In addition to these ordinances and programs, a public awareness and education program could be sponsored, in conjunction with organizations such as the Home Modification

Action Coalition. The city could also sponsor guidebooks/plan books with sample designs for distribution to builders and developers (similar to Universal Design New York, by the IDEA Center.) Technical assistance and educational programs for designers, builders, real estate brokers and other related professionals could be provided to answer common questions and provide continuing education. Other possible methods of disseminating the concept of universal access could take the form of a subsidy for demonstration housing projects at such events as a parade of homes or home show. An awards program for exemplary projects could also be sponsored, honoring those who are making a difference in their communities.

Any program of this nature must have a method of monitoring and enforcement. Once a monitoring system is in place, this could be coupled with a dissemination program for release of public information on the results.

Universal Accessibility Proposals

There are clearly a wide number of options when considering the scope of an ordinance or incentive program related to universal accessibility. Two options include:

1. A focus on all new senior citizens' housing. Dwelling units in senior housing could be required to employ full adaptability according to ICC/ANSI *Type A* "adaptable" units. This would implement a level of access beyond the requirements outlined by the Fair Housing Accessibility Guidelines. All units in elevator equipped buildings would be required to maintain this level of access, in addition to ground floor units of walk ups. There could also be a requirement to provide space for future construction of elevators in walk up buildings.
2. Incentives for all new single-family homes. Graduated incentives with a list of qualifying items beyond basic visitability could be made available to builders and homeowners. This could range from one additional element to full universal access. All types of incentives would have a maximum value and could take the form of tax credits for homeowners, a builder tax credit, or fee waivers. A payback should be required if access features are removed. This program could include sunset provisions (e.g. in 10 years these incentives will no longer be offered.) Some examples of that could fall under this incentive program include:
 - Driveways or walks no greater than 5% grade
 - Two stepless entries
 - At least a *full* accessible bathroom on first floor
 - Bedroom or "swing room" on first floor
 - Adaptable bathrooms, kitchens and storage
 - Space for future elevator or lift
 - Accessibility to power panel
 - Sensory enhancement – vision and hearing package
 - Safer stairways
 - Etc.

Cost vs. Benefit Analysis

A common question when broaching issues of visitability and universal access is “How much will it cost?” There is often a perception that visitability and universal access will significantly add to the cost of a project.

Concrete Change, lead by Eleanor Smith, has been a major force in advocating visitability in Atlanta, GA. They developed a list of costs for visitability features in both new and retrofitted construction. In new construction, the cost associated with a zero step entrance amounts to approximately \$150. Another \$50 is necessary to purchase larger doors for the interior. The final total is approximately \$200-\$300, or, in their estimate, about a third the cost of a bay window. In comparison, to add these features to an existing home, the associated costs are considerably more significant. An estimated \$1000 would be necessary to add a zero-step entrance as a retrofit, and \$700 would be necessary in order to widen one existing doorway. Published by Concrete Change, Table 6 shows an itemized breakdown of the costs associated with implementing visitability in a new construction project.

Table 4
Costs Associated with Various Design Changes

	Design Changes	Itemized Cost
No Step Entry	Grade site to provide driveway slope of 5%	\$0
	Eliminate wood stairway	\$300-\$500 credit
	6ft. long wooden ramp	Less than \$500
Accessible Doors	Widen 5 doors to 32” clear	\$25
	Increase bedroom hallway from 36” to 42”	\$0
	Reduce bedrooms by 3” wide and add 6” to hallway width	\$0
Access to a bathroom	Add 10 sq. ft. to one bathroom	\$0
	Reduce living room by 10 sq. ft.	\$0

Source: Concrete Change

The Rochester, New York, chapter of Habitat for Humanity agreed to modify their house designs in order to include visitable features. Their base model was a two-story wood frame structure with a full basement. In modifying the original design of the house, the

driveway was sloped gradually from the sidewalk to the rear of the house and a short wooden ramp was added to the rear of the house, leading to a rear deck. The ramp added significant convenience in bringing things in and out of the home and, in their opinion, did not cost more than a stairway to the deck. A half bathroom on the first floor was added in an otherwise underutilized space. This cost \$1200, the entire cost difference between the designs. It was decided, however, that this additional cost was acceptable because it created a much more desirable plan. It increases the value of the home by providing more privacy and reducing conflicts for the family. The bathroom also made the plan more efficient, as the space would otherwise have been unused. The ramp adds significant convenience in bringing things in and out of the home.

In 1993, a report entitled “The Cost of Accessible Housing” was published by the Department of Housing and Urban Development. It estimated the additional cost impact of the Fair Housing Accessibility Guidelines on multifamily housing. Eight existing projects constructed by private developers were studied and redesigned to meet the guidelines. The study estimated that the cost of making housing compliant was 0.28% of total construction cost for dwelling units and 0.33% for total project costs. There was a negligible additional price for fully adaptable units. The cost associated with specific features is shown in Table 7.

Table 5
The Cost of Accessible Housing Features

Item	Cost
Increase door width to 2'-10"	\$1.20 - \$5.50
Lever handles on entrance door	\$5.00 - \$8.00
¾" threshold at entrance and patio door	\$12 - \$20
Blocking in bathroom walls	\$20 or less
Design for removable vanity cabinet including brackets	\$25 - \$68
Design for 30" wide adjustable kitchen counter with knee clearance	\$25 - \$52
Design for adjustable height for kitchen sink	\$41 - \$63

Source: U.S. Department of Housing and Urban Development

For society in general, there are potential cost savings associated with removing stairs because they are a cause of household injuries. Hospital-treated injuries related to products in the United States in 1994 include:

- Stairs or steps – 1,030,000
- Floors and flooring materials – 940,000
- Doors – 314,000
- Bathtubs and showers – 174,000

Jake Pauls, an engineer working in Canada, has researched the economic impact of injuries caused by stairway use. He estimated that the total cost to society from stair related injuries would be \$940 billion dollars if a projected 62.5 million typical homes are built in the U.S. from 2000-2050. However, if these homes were constructed to be visitable, the typical home would have two stairways rather than three. That would mean one-third fewer stair related injuries and a savings to the nation of over \$300 billion over the next 50 years.

Conclusion

While it is certainly true that all users of a universally designed product or building become aware of its benefits at some point in their lives, this is especially true for older people. It is likely, as we age, that we will all be beneficiaries of universal access features.

The increase in numbers of older people over the next 20 years is significant. It therefore requires thinking ahead about where our seniors and we will spend our retirement. And while the aging are certainly major beneficiaries of this design paradigm, universal access is fundamentally design for all people. Anyone can have a temporary disability at any time.

Appendix

1a: Local visitability initiatives

<u>Proposed City Initiatives</u>
Philadelphia, PA
Pittsburgh, PA
Toledo, OH
Dearborn, MI
Onondaga County, NY
Springfield/Eugene OR

1b: Statewide visitability initiatives

<u>Proposed State Initiatives</u>
Massachusetts
Missouri
Nebraska
New Hampshire
Oklahoma
Pennsylvania
Utah
Wisconsin

Appendix 2:

Proposal for Ordinance

I. New single-family, duplex, triplex houses and attached townhouses

A. Features

1. One zero step entrance with a steepness no greater than 1:12 and a threshold of no more than ½ inch. This entrance must be on an accessible path that has a firm, even surface such as a concrete sidewalk or a garage floor. It can be located in the front, back or side of the home or through the garage. If the lot cannot be graded with a 1:12 or less slope for the driveway, a steeper driveway is permitted. In these circumstances, the 1:12 or less sloped entrance can proceed from the driveway to the home. No railings are required on driveways or walks.
2. Each room on the floor served by the stepless entrance, including laundry rooms, but not including closets or pantries, must be served by at least one door that provides 32 inches of clear passage space.
3. A stepless path throughout the floor served by the stepless entrance.
4. Electrical switches and outlets not lower than 18 inches to center, nor higher than 48 inches to center.
5. Lever handles on doors to all rooms on the floor served by the stepless entrance.

B. Portions of certain homes with under-house garages

Garages may be constructed under detached, single-family houses, duplexes and triplexes. In these cases, the floor of the house above the garage is exempt from the access requirements. However, any portion of the house adjacent to the garage must have the access features that apply.

II. Renovations of single family homes, duplexes, triplexes and attached townhouses where projected cost is more than 50% of the market value of the home.

In certain circumstances, the home is exempt from the access requirements. (For example, when no new entrances are to be added to the home because the project is an addition of a second floor above the existing main floor.)

III. Optional Universal Design items for which a financial benefit may accrue to the home owner (Incentives).

- A. The owner of any new or substantially renovated home, as described above, may receive a one-time property tax reduction from the City for certain additional features where the required basic access features are in place. This applies to the following items and in the following amounts:
1. A second or third stepless entrance with a ½ inch threshold on an accessible path-- \$200 per entrance.
 2. Blocking in bathroom walls or half-baths on the floor accessed by the stepless entrance near the commode, tub and shower complying with the ICC/ANSI A117.1 Standard-- \$25 per bathroom.
 3. One high commode on the floor reached by the stepless entry-- \$50.
 4. Curb-free shower complying with ICC/ANSI A117.1 Standard -- \$350.
 5. Thermostat and appliances with large print and high contrast between characters and their background -- \$20 per appliance.
 6. Front loading washer and dryer with controls located at the front face of the unit--\$20 per appliance.
 7. Raised dishwasher--\$20 per appliance.
 8. Adaptable kitchen complying with ICC/ANSI A117.1--\$200.
 9. A home elevator large enough to carry a person in a wheelchair and one standing person, and which leads from the floor accessed by the stepless entrance to an upper floor of the home-- \$700.
 10. Walk-in closets vertically arranged in such a way, and large enough to accommodate installation at a later time of the above-described in home elevator--\$300.
- B. Process of Inspection
- In order to receive the tax reduction, the owner of the new or renovated home, which already includes the required features mentioned in Section I, may arrange for a more detailed inspection at the time of the inspection for certificate of occupancy. During this inspection, all items to be claimed from the above option list must be currently in place. The inspector shall note in writing the completed optional items and shall give the home owner a document signed and dated by the inspector. The document should verify the items and the dollar amount eligible for the one-time deduction from the property tax.
- C. The amount of exemption shall not exceed the amount of the property tax for the first year of occupancy.

IV. Enforcement

- A. The _____ (official or department) is charged with enforcing this ordinance.
- B. A copy of the ordinance shall be attached to each permit for new or renovated homes. The applicant for the permit shall sign a document stating that he or she has received a copy of the ordinance. A copy of this signed document shall be maintained in the department records.
- C. At the time of inspection for certificate of occupancy in the homes covered by the ordinance, and for which no waiver has been granted, the inspector shall note the presence or absence of the features listed in Section I.A. above.

V. Waivers

- A. Waivers from the requirements can be obtained for situations where there are specific difficulties, not described above. (For example, a home built on a flood plain where existing code require entrances to be higher than on regular properties.) The problem must be described in writing and an inspector from the _____ department must make a site visit to verify that the requirements of the ordinance cannot feasibly be met.
- B. A list of the addresses of the properties which have been granted waivers, and the names of the individual and/or companies who have applied for and/or have been granted waivers, must be maintained by the _____ department and available to the public.

Springfield, Illinois, Code of Ordinances >> TITLE XVII: - BUILDING REGULATIONS >> **ARTICLE I.
GENERAL PROVISIONS** >>

ARTICLE I. GENERAL PROVISIONS

[§ 177.10.01. Citation.](#)

[§ 177.10.02. Purpose and scope.](#)

[§ 177.10.03. Definitions.](#)

[§ 177.10.04. Waivers.](#)

§ 177.10.01. Citation.

This chapter shall be known as the "visitability code" and shall be cited as such.

(Ord. No. 458-07-07, § 1(Exh. A), 7-3-07)

§ 177.10.02. Purpose and scope.

The provisions of this chapter shall regulate the design of visitability features in new construction of one- and two-family dwellings funded in whole or part with financial assistance originating from or flowing through the City of Springfield and shall supersede other requirements of this Code.

The provisions of this chapter shall not apply to:

- (a) The construction of any dwelling that is not funded with financial assistance as defined in this chapter; or
- (b) Any building for which a building permit has been issued prior to the date of passage of this visitability code by the city council; or
- (c) Any building for which a building permit has been applied prior to the date of passage of this visitability code by the city council if a building permit is subsequently issued on the basis of such application within six months of the date of the original application.

(Ord. No. 458-07-07, § 1(Exh. A), 7-3-07)

§ 177.10.03. Definitions.

For purposes of this chapter, the following definitions shall apply:

Bathroom. A bathroom, powder room or washroom.

Financial assistance. (a) providing public funds (i) for labor or materials for the new construction of a single-family or two-family structure, or (ii) for the acquisition of a parcel of land on which a new single-family or two-family structure is to be constructed, or (b) any conveyance by the city of the parcel of land on which a new single-family or two-family structure is to be constructed if the consideration for the conveyance is less than 80% of the appraised value of the parcel of land. "Financial assistance" does not include infrastructure, sanitary or storm sewer or other public infrastructure improvements.

First floor. A floor served by the no-step entrance to which [section 177.10.04](#) of this chapter refers.

Illinois Accessibility Code. The rules and regulations promulgated under 71 Illinois Administrative Code Part 400, approved March 24, 1997, and all amendments thereto.

New construction. Any construction of a new single-family or duplex dwelling on a vacant lot, but shall not include additions to or remodeling of existing buildings. Financial assistance utilized to upgrade a particular element of a structure for hazard mitigation such as higher wind resistance, tornado shelters or other similar features shall not, by itself, require a building to meet the requirements of this visitability code.

Public funds. Any funds subject to the control or regulation of the City of Springfield or any of its officers in their official capacity, including funds received by the city from federal or state grants.

(Ord. No. 458-07-07, § 1(Exh. A), 7-3-07)

§ 177.10.04. Waivers.

Where site conditions or other restrictions warrant, waivers from the requirements of this visitability code may be granted by the city council after consideration and recommendation of the building code board of appeals. Waivers will be submitted to the city council by the board of appeals only if the board of appeals recommends their approval by majority vote of the members present and voting. If the board of appeals does not recommend approval, the waiver is denied and the board of appeals' findings will be the final administrative decision on such a waiver. The city council shall have the final authority to grant or deny any waiver request submitted to it by the board of appeals.

(Ord. No. 458-07-07, § 1(Exh. A), 7-3-07)

St. Petersburg, Florida, Code of Ordinances >> PART II - ST. PETERSBURG CITY CODE >> Chapter 17.5 - HOUSING ASSISTANCE >> ARTICLE V. WORKFORCE HOUSING DENSITY BONUS PROGRAM >>

ARTICLE V. WORKFORCE HOUSING DENSITY BONUS PROGRAM

Sec. 17.5-96. Purpose.

Sec. 17.5-97. Definitions.

Sec. 17.5-98. Scope of application; density bonus.

Sec. 17.5-99. Application for workforce housing bonus density dwelling units.

Sec. 17.5-100. Criteria for location, integration, character of workforce housing bonus density dwelling units.

Sec. 17.5-101. Workforce housing bonus density agreement.

Sec. 17.5-102. Affordability controls.

Sec. 17.5-103. Enforcement; violations.

Sec. 17.5-96. Purpose.

The purpose of this article is to:

- (1) Create incentives for developers and property owners to provide workforce housing as a part of new development within the City;
- (2) Assist in implementing the affordable housing goals, policies, and objectives contained in the comprehensive plan of the City;
- (3) Assist in making affordable housing available for employees of businesses that are or will be located in the City;
- (4) Maintain balanced housing opportunities in the City to provide housing for people of all income levels;
- (5) Assist in implementing planning for affordable housing as required by F.S. § 420.907;
- (6) Implement the workforce housing density bonus opportunity established in the land development regulations adopted by the City.

(Code 1992, § 17.5-51; Ord. No. 854-G, § 1, 11-29-2007)

Sec. 17.5-97. Definitions.

The following words and terms shall have the meanings set forth in article III of this chapter or as otherwise specified herein.

Affordable means that monthly rents or monthly mortgage payments including taxes and insurance and condominium and homeowner association fees do not exceed 30 percent of the median annual gross income for a low-income, moderate-income, or middle-income household. However, if the first institutional mortgage lender is satisfied that the household can afford mortgage payments in excess of 30 percent, then such payments, including revolving and installment debt, shall not exceed 41 percent of the median annual gross income.

Area median income (AMI) means the median income for the Tampa/St. Petersburg/Clearwater metropolitan statistical area (MSA) which is adjusted for the household size as calculated and published annually by the United States Department of Housing and Urban Development.

Density bonus means an increase in the number of units on a site to provide an incentive for the construction of workforce housing pursuant to this article and which may be allowed by a zoning district either as additional units or additional FAR (floor area ratio, see [section 16.60.010](#)).

Development means a project which includes one or more workforce housing bonus density dwelling units on a property utilizing the bonus density allowed by the zoning district.

Development Review Commission (DRC) means the City's development review commission.

Median gross household income means the median income level for the Tampa/St. Petersburg/Clearwater MSA, as established and defined in the annual schedule published by the Secretary of the U.S. Department of Housing and Urban Development, adjusted for household size.

Workforce housing means housing with monthly rents or monthly mortgage payments including taxes, insurance, and condominium or association fees, if any, that are affordable.

Workforce housing bonus density agreement means a written agreement between an applicant for a development and the City containing specific requirements to ensure the continuing affordability of housing included in a development.

Workforce housing bonus density dwelling unit means any housing subject to the covenants or restrictions of this article.

(Code 1992, § 17.5-52; Ord. No. 854-G, § 1, 11-29-2007)

Sec. 17.5-98. Scope of application; density bonus.

- (a) Any development proposing to utilize the density bonus allowed in a zoning district, as set forth in [chapter 16](#) (see informational table in subsection (d) of this section), shall enter into a workforce housing bonus density agreement which shall irrevocably commit the developer and/or property owner to provide a specific number of workforce housing bonus density dwelling units for a minimum of 30 years on the property subject to the development agreement. The agreement shall provide such protections as the City shall require ensuring that such units meet the requirements of this article.
- (b) Workforce housing bonus density dwelling units shall be offered for sale or rent at a price which is affordable to income eligible households as set forth in this section. For each multiple of six workforce housing bonus density dwelling units approved:
 - (1) The first unit shall be offered at 80 percent AMI or below.
 - (2) The second and third units shall be offered at 120 percent AMI or below.
 - (3) The fourth unit shall be offered at 150 percent AMI or below.
 - (4) The fifth unit shall be offered at 80 percent AMI or below.
 - (5) The sixth unit shall be offered at 150 percent AMI or below.
- (c) Developments constructing multiples of six workforce housing bonus density dwelling units shall comply with the requirements in subsections (a) and (b) of this section. For a development constructing a number of workforce housing bonus density dwelling units less than a multiple of six (e.g., five units, 27 units (four multiples of six plus three units), 31 units (five multiples of six plus one unit), etc.), a variance to the foregoing requirements may be requested for that portion of the units less than a multiple of six. Variances may be requested from the Development Review Commission at the time the development is approved; however, the first unit shall always be offered at 80 percent AMI or below. For each set less than six, the units shall be offered in the order set forth above unless a variance to that order is approved.

(d) This informational table does not supersede the zoning district requirements in [chapter 16](#)

Zoning Districts Allowing Workforce Housing Bonus (Information Only)			
Zoning District	Compatible Future Land Use Category	Max. Density Permitted by Right (UPA/FAR)	Workforce Housing Bonus (UPA/FAR)
NSM-1	Residential Medium (RM)	15/0.50	6
NSM-2	Residential High (RH)	24/0.60	6
NPUD-1	Residential Urban (RU)	7.5/0.30	6
NPUD-2	Residential Low Medium (RLM)	10/0.30	6
CRT-1	Planned Redevelopment—Mixed Use (PR-MU)	24/1.0	6/0.20
CRT-2	Community Redevelopment District (CRD)	40/1.5	6/0.20
CRS-1	Residential/Office General (R/OG)	15/0.50	6
CRS-2	Planned Redevelopment—Mixed Use (PR-MU)	30/0.65	6/0.20
CRS-2 (in activity center)	Planned Redevelopment—Mixed Use (PR-MU)	30/0.70	6/0.20
CCT-1	Planned Redevelopment—Mixed Use (PR-MU)	24/1.0	6/0.20
CCT-2	Community Redevelopment District (CRD)	40/1.5	6/0.20
CCS-1	Planned Redevelopment—Mixed Use (PR-MU)	15/0.55	6/0.20
CCS-1 (in activity center)	Planned Redevelopment—Mixed Use (PR-MU)	22/0.82	6/0.20
CCS-2	Planned Redevelopment—Commercial (PR-C)	40/0.75	6/0.20
CCS-2 (in activity center)	Planned Redevelopment—Commercial (PR-C)	60/1.12	10/0.50
DC-Core	Central Business District (CBD)	See Section 16.20.120.6 of the Land Development Regulations	
DC-1	Central Business District (CBD)		
DC-2	Central Business District (CBD)		
DC-3	Central Business District (CBD)		
IC (I)	Institutional (I)	12.5/0.55	6
IC (R/OG)	Residential/Office General (R/OG)	15/0.50	6
IC (CRD, activity center)	Community Redevelopment District (CRD)	24/1.37	6/0.20
RC-1	Planned Redevelopment—Commercial (PR-C)	30/0.75	10/0.25
RC-1 (in activity center)	Planned Redevelopment—Commercial (PR-C)	45/1.12	15/0.50
RC-2	Planned Redevelopment—Commercial (PR-C)	55/1.0	10/0.25
RC-2 (in activity center)	Planned Redevelopment—Commercial (PR-C)	82/1.5	15/0.50

(Code 1992, § 17.5-53; Ord. No. 854-G, § 1, 11-29-2007)

Sec. 17.5-99. Application for workforce housing bonus density dwelling units.

(a) Any development proposing to utilize the density bonus allowed in a zoning district shall include

in the zoning application such information as is required by the POD to ensure compliance with this article, the land development regulations, and the application and procedures in section 16.70.040 for workforce housing and site plan review.

(b) At a minimum, the application shall include:

- (1) A general description of the development, including whether the development will contain units for rent or for sale;
- (2) The total number of market-rate units and workforce housing bonus density dwelling units;
- (3) The number of bedrooms in each unit;
- (4) The square footage of each unit measured from the interior walls of the unit and including heated and unheated areas;
- (5) The location in the development of each workforce housing bonus density dwelling unit;
- (6) If the construction of dwelling units is to be phased, a phasing plan identifying the number of workforce housing bonus density dwelling units in each phase;
- (7) The estimated initial sale price or monthly rent of each unit;
- (8) Documentation and plans regarding the interior and exterior appearances, materials, and finishes of the workforce housing bonus density dwelling units if not exactly the same as the other units;
- (9) The marketing plan the applicant proposes to implement to promote the sale or rental of the workforce housing bonus density dwelling units within the development to eligible households;
- (10) An accurate legal description of the property, which may require a copy of the title insurance policy or deed for the property;
- (11) Such other information as may reasonably be required by the POD.

(Code 1992, § 17.5-54; Ord. No. 854-G, § 1, 11-29-2007)

Sec. 17.5-100. Criteria for location, integration, character of workforce housing bonus density dwelling units.

A development shall comply with the following:

- (1) Workforce housing bonus density dwelling units shall be mixed with, and not clustered together or segregated in any way, from the market-rate units;
- (2) The number of efficiency, one, two, and three or more bedroom workforce housing bonus density dwelling units shall be proportional to the number of one, two, and three or more bedroom market rate units (e.g., if 50 percent of the market rate units are two bedroom, then at least 50 percent of the workforce units shall be two bedroom or larger);
- (3) If the development is phased, the phasing plan shall provide for the development of workforce housing bonus density dwelling units proportionately and concurrently with the market-rate units;
- (4) The exterior appearance of workforce housing bonus density dwelling units shall be similar to the market-rate units and shall provide exterior building materials and finishes of substantially the same type and quality;
- (5) The interior building materials and finishes of the workforce housing bonus density dwelling units shall be of substantially the same type and quality as market-rate;
- (6) All workforce housing bonus density dwelling units shall comply with the building and construction requirements of article IV of this chapter (the City's Visitability Ordinance);

- (7) The minimum size for workforce housing bonus density dwelling units shall be 375 square feet for efficiency units, 500 square feet for one bedroom units, 750 square feet for two bedroom units and 200 additional square feet for each additional bedroom;
- (8) Variances to the foregoing requirements may be requested from the Development Review Commission at the time the development is approved. A request for a variance to a site plan with workforce housing bonus density units may be made to the development review commission.

(Code 1992, § 17.5-55; Ord. No. 854-G, § 1, 11-29-2007)

Sec. 17.5-101. Workforce housing bonus density agreement.

- (a) Prior to the approval of any development order or permit (including the issuance of a building permit or the public hearing for any approval) for any development in which a density bonus is requested, the applicant shall enter into a workforce housing bonus density agreement with the City. The agreement shall set forth the commitments and obligations of the applicant to ensure compliance with this article.
- (b) The applicant shall execute any and all documents deemed necessary by the City in a form to be established by the City, including, without limitation, restrictive covenants, protective covenants, deed restrictions, and related instruments (including requirements for income qualification for tenants of rental units) to ensure the continued compliance with this article.
- (c) Restrictive covenants or deed restrictions and other required documents shall specify that the title to any workforce housing bonus density dwelling units shall only be transferred with prior written approval by the City. The sole purpose of this approval shall be to ensure that any transfer complies with the requirements of this article and other Codes and development orders or permits and conditions thereof. Such written approval shall be executed by the City Administrator and approved as to form by the City Attorney or his designee before it is effective.

(Code 1992, § 17.5-56; Ord. No. 854-G, § 1, 11-29-2007)

Sec. 17.5-102. Affordability controls.

- (a) The POD shall promulgate such forms and rules as are necessary to implement this article. On an annual basis, the POD shall make available copies of the U.S. Department of Housing and Urban Development household income limits and rental limits applicable to Workforce Housing Bonus Density Dwelling Units.
- (b) The owner of a development consisting of rental workforce housing bonus density dwelling units shall submit an annual report before June 1 of each year, for the preceding calendar year, to the City identifying which units are workforce housing bonus density dwelling units, the monthly rent for each unit, vacancy information for each month for the prior year, monthly income for tenants of each units, and other information as required by the City. The annual report shall contain information sufficient to determine whether tenants met the requirements of this article.
- (c) For any sale of workforce housing bonus density dwelling units, the purchaser shall execute and record such documentation as required by the workforce housing bonus density agreement and this article. Such documentation shall include, at a minimum, each of the following:
 - (1) A workforce housing bonus density agreement for renter occupied workforce housing bonus density dwelling units. Such units shall be occupied by income eligible households for a period of 30 years from the date of the initial certificate of occupancy.
 - (2) A workforce housing bonus density agreement for owner occupied workforce housing

bonus density dwelling units. Such units shall be conveyed subject to restrictions that shall ensure compliance with this article and the workforce housing bonus density agreement for income eligible households for a period of 30 years from the date of the first sale of each unit.

- (d) The owner of workforce housing bonus density dwelling units which are for lease shall execute and record such documents as are required by the workforce housing bonus density agreement and this article. No lease shall be executed until the household income has been verified in writing by the City. Such documentation shall include, at a minimum, the following information:
- (1) The workforce housing bonus density dwelling units shall be leased to and occupied by income eligible households.
 - (2) The workforce housing bonus density dwelling units shall be leased at rent levels affordable to income eligible households for a period of 30 years from the date of the initial certificate of occupancy.
 - (3) Subleasing of workforce housing bonus density dwelling units is not allowed without the express written consent of the POD which shall not be unreasonably withheld if the sublessee and lease meet the requirements of this article.

(Code 1992, § 17.5-57; Ord. No. 854-G, § 1, 11-29-2007)

Sec. 17.5-103. Enforcement; violations.

- (a) It is a violation of this article to fail to file an annual report on or before June 1 of each year. Any violation shall be subject to daily fines by the Code Enforcement Board.
- (b) It is a violation of this article to rent, sell or initially occupy any workforce housing bonus density dwelling unit if the household is not income eligible as required by this article.
- (c) It is a violation of this article to knowingly give false or misleading information relating to this program to any the City employee.
- (d) It is a violation of this article for any person to participate, in any way, in any sale of a unit or lease of a unit which violates any provision of this article or the workforce housing bonus density agreement. The term "participation" includes any act, or failure to act, of the buyer, seller, lender, realtor, title insurer, surveyor, or any other person which allows a violation of this article or the workforce housing bonus density agreement to occur. The fine for each violation of this article shall be \$500.00. Each day shall be a separate violation.
- (e) The City may enforce this article and the terms of a workforce housing bonus density agreement by request for injunction. If the City obtains an injunction, the defendant shall pay all costs incurred by the City in obtaining the injunction, including but not limited to attorney's fees.
- (f) Notwithstanding the foregoing, the City may use any lawful method to enforce this article and the terms of a workforce housing bonus density agreement, including those specifically identified in [section 1-7](#)

(Code 1992, § 17.5-58; Ord. No. 854-G, § 1, 11-29-2007)

(DRAFT) ORDINANCE NO. _____

AN ORDINANCE PROVIDING FOR THE AMENDMENT OF CHAPTER 17.5 OF THE CITY CODE TO REQUIRE CERTAIN DESIGN FEATURES IN NEW RESIDENTIAL CONSTRUCTION WHERE FINANCIAL ASSISTANCE IS RECEIVED FROM THE CITY; PROVIDING FOR FINDINGS; PROVIDING FOR A STATEMENT OF INTENT AND PROVIDING AN EFFECTIVE DATE.

THE CITY OF ST. PETERSBURG DOES ORDAIN:

Section 1. The City Council finds that:

- (1) Standard housing construction generally does not take into consideration those features which facilitate access for persons with disabilities; and
- (2) Persons with disabilities and their immediate families often experience difficulty in finding housing which would accommodate their needs; and
- (3) There is a significant insufficiency of supply of adaptable/accessible housing to meet the demand; and
- (4) It is not unreasonable to require certain basic design features which would make housing visitable and adaptable to persons with disabilities; and
- (5) The basic design features of this ordinance would make housing visitable and adaptable but would not result in a dwelling unit that is limited solely in its habitation by persons with disabilities or otherwise be functionally or esthetically objectionable to non-disabled persons.

Section 2. Statement of Intent. The provisions of this ordinance are enacted to implement the City's policy that buildings for residential use, consisting of one to three units, which are constructed fully or partially with City funds will be constructed using design features that provide visitability and adaptability, as defined herein, for persons with mobility disabilities.

Section 3. Chapter 17.5 of the City Code is amended to add Article III, Sections 17.5 30 - 36 to read as follows:

ARTICLE III. ACCESSIBILITY IN HOUSING CONSTRUCTED WITH PUBLIC FUNDS

Sec. 17.5-30. Applicability.

(a) Except as otherwise provided in this section, this Article applies to the new construction of buildings for residential use, consisting of one to three units, which are funded with any financial assistance from the City ninety (90) days after the adoption of this Article, (insert date).

(b) This Article does not apply to existing residential structures.

(c) “Financial assistance from the City” shall mean partial or full funding for new residential building construction or acquisition of land where new residential buildings will be constructed where funding from or flowing through the City is committed or expended prior to the issuance of a permit for the construction of a residential structure by the City, including but not limited to:

- (1) A building contract or similar contractual agreement prepared or approved through a City housing program or fund;
- (2) A below market value sale or lease, or donation by the City of land or land intended to be cleared and used for residential purposes; or
- (3) A release of a lien or special assessment requested by the City. Financial assistance from the City shall not include releases of liens or special assessments from property owned by the City.

Financial assistance from the City shall not include bond assistance or tax or fee waivers.

(d) “Visitable” shall mean the inclusion of architectural and landscaping design features which allow basic access to and within a residential dwelling by people who use mobility devices such as wheelchairs and scooters and which minimize the cost of future modifications to achieve accessibility.

(e) “Adaptable” shall mean the inclusion of architectural design features in a residential dwelling wherein an occupant, present or future, can add elements, without the need to structurally alter the dwelling unit, to accommodate the needs specific of the occupant where those needs are related to a mobility disability.

(f) It shall be unlawful for any person, including but not limited to, any owner, borrower, contractor, or design professional of any building regulated under this Article to fail to comply with any provision of this article.

Sec. 17.5-31 Building Entrances.

(a) Dwelling units shall be designed and constructed to have at least one no-step entrance on an accessible route as defined in Section 11-3.5, Florida Building Code, as amended, and in compliance with section 11-4.3.8, Florida Building Code, as amended, unless it is impractical to do so because of terrain or unusual characteristics of the site. The inclusion of a ramp shall not be required where grading is impractical or when a ramp is not acceptable to the applicant seeking financial assistance from the City. However, the dwelling unit must be designed in such a manner that a ramp could be constructed on an accessible route leading to the no-step entrance.

(b) The entrance may be at the front, side, or back of a dwelling as long as it is served by an accessible route as defined in Section 11-3.5, Florida Building Code, as amended.

(c) Building entrance doors shall comply with Section 11-4.13, Florida Building Code, as amended.

Sec. 17.5-32 Interior Doors

(a) Dwelling units shall be designed and constructed to have doors within the dwelling units intended for user passage, except those serving closets less than 15 feet square in area, that provide a minimum 32 inches clear opening (815 mm) with the door open 90 degrees, measured between the face of the door and the opposite stop as provided in Section 11-4.13.5, as amended. A 2'-10" door or standard 6'-0" sliding patio door assembly is deemed sufficient to comply with this requirement. Compliance with Section 11-4.13.6, Florida Building Code, as amended, shall not be mandatory.

(b) Lever handle hardware is required on all swinging doors along the accessible route as defined in Section 11-3.5, Florida Building Code, as amended.

Sec. 17.5-33 Hallways, Passageways and Maneuvering Space within Dwelling Units.

Dwelling units shall be designed and constructed so that all hallways and passageways on the first floor of the dwelling unit shall be a minimum of 44 inches in width. All hallways and passageways shall be level with ramped or beveled changes at door thresholds, complying with Sections 11-4.3.8, 11-4.5.2 and 11-4.5.3, Florida Building Code, as amended.

Sec. 17.5-34 Bathrooms.

(a) A bathroom or powder room on the first floor of a dwelling unit shall be designed in such a manner to allow sufficient clear floor space for a rectangle measuring 30 inches wide by 48 inches long (as representing a mobility device) to be introduced and allow the door to be closed.

(b) Bathroom walls on the first floor of a dwelling unit which adjoin a bathtub, a toilet, or a shower shall be designed and constructed with reinforcement blocking of at least 2 inch by 8 inch

(nominal) dimensional lumber between the studs in the walls at the locations required by Sections 11-4.16.4, 11-4.20 and 11-4.21, Florida Building Code, as amended.

Sec. 17.5-35 Light Switches, Electrical Outlets, Thermostats, and Other Controls

(a) All light switches, electrical outlets, thermostats and other controls shall be placed in accessible locations which provide clear floor space and reach ranges as set forth in Section 11-4.2, Florida Building Code, as amended, and mounted as set forth herein below. Where multiple controls serve the same elements (e.g., two remote switches for a light) only one need be accessible.

- (1) Light switches, thermostats, or electrical panels shall not be higher than 48 inches above the floor.
- (2) Electrical outlets shall be at least 15 inches above the floor.
- (3) Any electrical panel located outside the dwelling unit shall be no higher than 42 inches above the ground, at least 18 inches above the ground and adjacent to an accessible route as defined in Section 11-3.5, Florida Building Code, as amended.

Sec. 17.5-36 Waiver of Exterior Accessibility Regulations

(a) A waiver of the requirements of Section 17.5-31 of this article for a specific property may be requested by filing an application with the Building Official. The applicant shall attach any documents necessary to demonstrate the applicant's eligibility for the waiver. Applicant eligibility for such waiver shall be based on Accessibility Guideline 5, and tests thereunder, promulgated under the Fair Housing Act of 1988.

(b) The Building Official may waive any requirement of Section 17.5-31 of this article if the applicant demonstrates that the conditions of a site render compliance with that requirement an undue hardship.

(c) If the Building Official determines that the site meets the requirements for a waiver, the Building Official shall issue a waiver to the applicant, in writing, not later than 30 days after receipt of application.

Sec. 17.5-37 Conflict with FEMA Regulations

Whenever any requirement of this Article III conflicts with any requirement of the Federal Emergency Management Act (FEMA) or the City's ordinances adopted to implement those requirements (currently Flood Damage Prevention Codes (FDP), the FEMA or FDP requirement shall take precedence.

Section 4. Administration and Enforcement. The POD shall monitor new construction of buildings or acquisitions of land which may be used for new construction of buildings

regulated under this article from the point of origination of City participation through the issuance of the certificate of occupancy by the City to ensure compliance with this article.

Section 5. The provisions of this ordinance shall be deemed to be severable. If any portion of this ordinance is deemed illegal or unconstitutional, it shall not affect the legality or constitutionality of any other portion of this ordinance.

Section 6. In the event this ordinance is not vetoed by the Mayor in accordance with the City Charter, it shall become effective upon the expiration of the fifth business day after adoption unless the Mayor notifies the City Council through written notice filed with the City Clerk that the mayor will not veto the ordinance, in which case the ordinance shall become effective immediately upon filing such notice with the City Clerk. In the event this ordinance is vetoed by the Mayor in accordance with the City Charter, it shall not become effective unless and until the City Council overrides the veto in accordance with the City Charter, in which case it shall become effective immediately upon a successful vote to override the veto.

APPROVED BY CAPI ON _____

**SECTION BY SECTION ANALYSIS
OF THE PROPOSED VISITABILITY ORDINANCE
FOR THE CITY OF ST. PETERSBURG**

Sec. 17.5-30. Applicability

CAPI makes no apology in advancing the applicability and conditions in the use of public funding. Even the City must comply with the conditions that accompany forms of funding from the state or federal government. The premise is, when you want to take advantage of the generosity of others, then you should accept any conditions that might come with it.

Will these conditions affect private developers? Certainly. Will these conditions inhibit them from going forward with a project? **That is doubtful.** Why? Because the cost of compliance is insignificant in the light of the overall cost of project and is more than offset by the financial assistance from the City. The question that needs to be asked is: How will this ordinance benefit the citizens of St. Petersburg? The answer is simple. It holds the potential of having more homes from which persons with disabilities can chose. These homes also offer the potential of reducing or eliminating any cost of adapting the home in the event the homeowner becomes disabled—either by reason of injury or the infirmities that often accompany the aging process. It is well documented that the population is aging. The advancement of medical technology has offered longevity as well as the saving of lives in traumatic circumstances. Another component that is driving the need for visitable housing hinges on the Olmstead decision¹ (See HHS Fact Sheet and President Bush's Executive Order attached) and the federal government's recognition of the economic advantage of using funds for in-home community based services.

Sec. 17.5-31 Building Entrances

This Section simply provides that a covered dwelling will not have any steps into one entrance and that the entrance shall be accessible via an accessible route; i.e., sidewalk. This can be achieved by grading the yard. The cost impact can be from \$0 to \$250 (for fill). CAPI, in considering this Ordinance, acquiesced in requiring a ramp in recognition of the possible objection by the homeowner applicant. CAPI also recognized the fact that the City has a loan program which can be accessed by a homeowner should a ramp be needed at a later date. However, the one drawback to this loan program rests on the fact that there is a minimum loan amount of \$1,500. Should a ramp cost less than \$1,500, this burden must be borne by the homeowner

¹ OLMSTEAD v. L. C. (98-536) 138 F.3d 893, affirmed in part, vacated in part, and remanded.

SECTION BY SECTION ANALYSIS OF THE VISITABILITY ORDINANCE, *Continued*

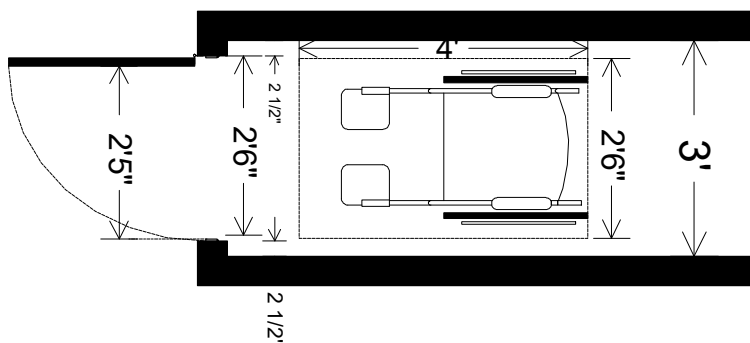
whereas should it be done as a condition of the ordinance, the cost could be included.

Sec. 17.5-32 Interior Doors

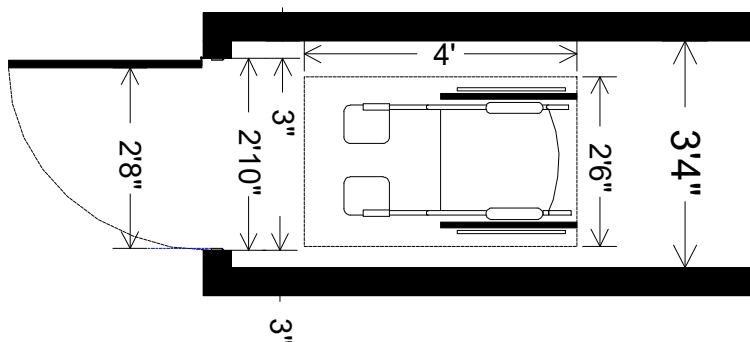
(a) This sub-section states that all interior doors shall have a 32 in. clear opening. Standard interior door widths are 2'-4" (28 in.), 2'-6" (30 in.), 2'-8" (32 in.), 2'-10" (34 in.), and 3'-0" (36 in.). The most widely used residential doors in private dwellings are 1-**d**" thick. In order to achieve a 32" clear opening you must use a 2'-10" door. A 2'-10" would require a minimum hall width of 3'-4" (40 in.).

The issue of door openings and maneuvering space is addressed in Sec. 17.5-33.

(b) See the attached cost comparisons for lever handles over knobs.



Hallway width per Code
29" clear bathroom door per FL statute



Hallway Width Adjusted
to accommodate a 2'-10" door
as required per Florida Building Cod

SECTION BY SECTION ANALYSIS OF THE VISITABILITY ORDINANCE, *Continued*

Sec. 17.5-33 Hallways, Passageways and Maneuvering Space within Dwelling Units.

The figures below illustrate the issue of doorway placement and maneuvering. Given the fact that few, if any builders, build homes with 36 in. hallways, this requirement of the Ordinance may be moot and the cost impact would be \$0. Design is critical in affordable housing where issues of net buildable space and cost issues impact the outcome. The greatest problem with regard to the interior is that of having sufficient maneuvering space. It is doubtful that you will find any disagreement with the fact that structural alterations after-the-fact are more costly than providing a design feature during construction. By requiring a 44 inch hallway, the Ordinance addresses the maneuvering space issue.

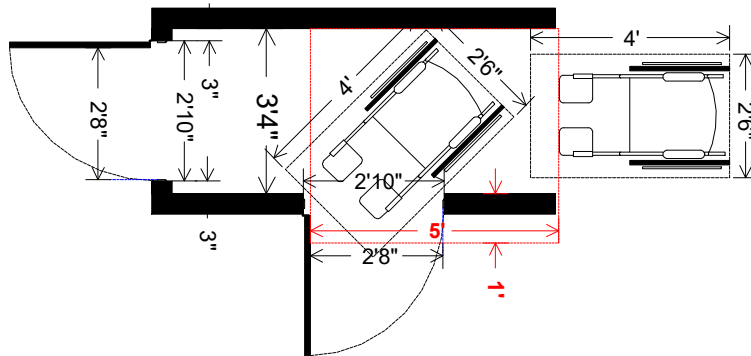
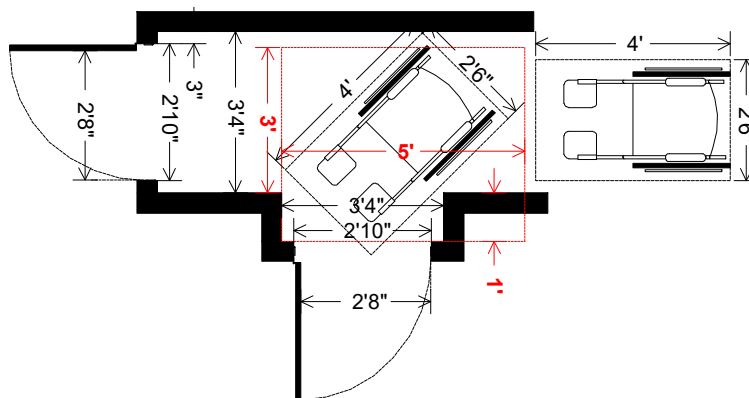
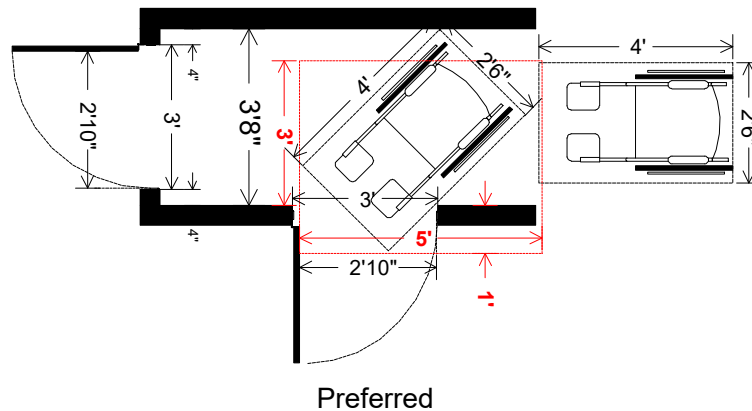


Illustration of Maneuvering Space
as required per Florida Building Code
Using Adjusted Hallway Width



Door Openings and Maneuvering Space
as required per Florida Building Code
Using Adjusted Hallway Width

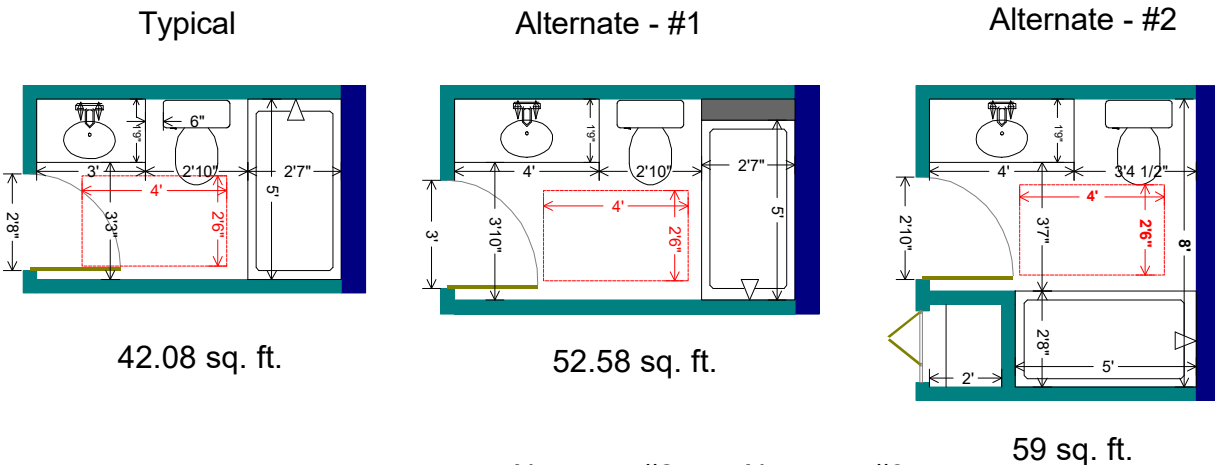
SECTION BY SECTION ANALYSIS OF THE VISITABILITY ORDINANCE, *Continued*



The cost impact of this requirement arises solely from any additional raw square footage that may be required to provide sufficient maneuvering space. See the following Table of Cost Potentials. In any event, the potential cost must be weighed against the potential cost **to the homeowner** of having to remodel the structure; which could reach as high as 10 times the maximum amount if, in fact, the structure could even be altered.

Sec. 17.5-34 Bathrooms

(a) This requirement and the additional cost impact is best illustrated in the following drawing.



	Alternate #2	Alternate #3
Area Difference:	10.5 sq. ft.	16.92 sq. ft.
Cost Difference (Diff. x \$50):	\$ 525.00	\$ 846.00

Note: The difference in Alternate #2 includes the addition of a Linen Closet

SECTION BY SECTION ANALYSIS OF THE VISITABILITY ORDINANCE, *Continued*

(b) This requirement is not unlike something that has been a building standard for many years; blocking for drapes. The added cost would probably be no more than \$80, including materials and labor.

Sec. 17.5-35 Light Switches, Electrical Outlets, Thermostats, and Other Controls

The normal mounting height for a light switch is 44 in.(horizontal centerline of the switch). There would be no need to change from this standard. The normal mounting height for an electrical outlet is 16 in.(horizontal centerline of the outlet). There would be no change required by the Ordinance, The normal mounting height for a thermostat is 60 in.(to the top of the thermostat). The Ordinance would require it to be mounted at 48 in. An argument was made that moving a thermostat is relatively simple and that the cost could be covered by the City's accessibility loan program. Such is not the case. The minimum loan is \$1,500. Since it is a loan and there is, among other things, an income component which is a factor of the Median Income Level. An electric control panel is mounted approximately 54 in.(at the bottom of the circuit breaker panel box). To comply with the Ordinance, the box would need to be 6 in. lower.

It should be noted that these requirements are not specific to persons with disabilities. You have people who are short in stature that could benefit from these changes.

Sec. 17.5-36 Waiver of Exterior Accessibility Regulations

In recognition of the flood plain issues within the bounds of the City and the relevant requirements to elevate the finished floor of the first floor of a residence, this Section gives the authority to the Building Official to waive the requirements of no steps leading to the entrance of a dwelling unit for the reasons stated in the Ordinance.

Sec. 17.5-37 Conflict with FEMA Regulations

Whenever any requirement of this Article III conflicts with any requirement of the Federal Emergency Management Act (FEMA) or the City's ordinances adopted to implement those requirements (currently Flood Damage Prevention Codes (FDP), the FEMA or FDP requirement shall take precedence.

SECTION BY SECTION ANALYSIS OF THE VISITABILITY ORDINANCE, *Continued*




VISTABILITY COST POTENTIALS

Element	Min. Cost	Max. Cost	Alt. Max. Cost*
Sec. 17.5-31 Building Entrances, Thresholds (See attached chart)	\$ 31	\$ 31	\$ 31
Sec. 17.5-32 Interior Doors (See attached door costing) The maximum cost relates to the difference between a 2'-6" and a 3'-0" luan hollow-core door based on 6 doors.	\$ 0	\$ 14	\$ 14
Sec. 17.5-32 Interior Doors , Hardware (See attached Cost Comparison)	\$ 73	\$ 98	\$ 98
Sec. 17.5-33 Hallways, Passageways and Maneuvering Space within Dwelling Units. The maximum cost relates to the additional square footage based on an original design for a 3 bedroom, 2 bath home of 1,150 sq. ft. using a factor of 5% (57.5 sq. ft.) @ \$50/sq. ft. Based on the example of redesigning the General Home Development Meadowlark model, the cost is actually negative.	\$ 0	\$ 2,875	\$ 0
Sec. 17.5-34 Bathrooms (See attached diagrams) Any additional space that may be required is reflected immediately above.	\$ 0	\$ 0	\$ 0
Sec. 17.5-35 Light Switches, Electrical Outlets, Thermostats, and Other Controls	\$ 0	\$ 0	\$ 0
TOTALS	\$ 104	\$ 3,018	\$ 143
Additional potential costs which would affect any minimum or maximum			
If any additional fill that may be need to grade the sidewalk leading to the front door. Calculated on the basis of 25 ft.(front setback) x 25ft. wide x 2 ft. rise /2 = 625 cu. ft./9 = 69 cu. yd. x \$15/yd.	\$1,042		
In the event that grading is not possible, this reflects the cost of installing a 3 ft. wide x 24 ft. long (for a 2 ft. rise as used in the calculation for fill) wood ramp with handrails. This item may be waived should a homebuyer wish to opt out.	\$2,500		

* Assuming a redesign as per attached example and no need for grading or ramping

SECTION BY SECTION ANALYSIS OF THE VISITABILITY ORDINANCE, *Continued*

Flush Hardwood Doors - Hollow Core







1-3/8" Lauan				1-3/8" Birch				1-3/8" Oak			
	Size	SKU#	Price		Size	SKU#	Price		Size	SKU#	Price
	2'-6"	1197	\$19.50		2'-6"	1210	\$31.95		2'-6"	6822	\$36.40
	2'-8"	1198	\$20.50		2'-8"	1211	\$32.95		2'-8"	6826	\$38.90
	3'-0"	1199	\$21.75		3'-0"	1212	\$34.89		3'-0"	6843	\$39.30

Source: National Homes Centers, 5-7-03, <http://www.nhci.com/intdoors.html>

SECTION BY SECTION ANALYSIS OF THE VISITABILITY ORDINANCE, *Continued*

Schlage Door Hardware







Source: Kiwiklocks.com (<http://www.kwiklocks.com/>)

Item	Prod. ID	Finish	Price	Diff.	No. of Doors	Ext.
	F10 Plymouth Passage Knob	Bright Brass	\$ 11.57	\$ 8.82	2	\$ 17.64
	F10 Accent Passage Lever	Bright Brass	\$ 20.39			
	F40 Plymouth Privacy Knob	Bright Brass	\$ 13.19	\$ 8.66	5	\$ 43.30
	F40 Accent Privacy Lever	Bright Brass	\$ 21.85			
	F54 Plymouth Keyed Entry Knob	Ultima Bright Brass	\$ 23.24	\$ 18.74	2	\$ 37.48
	F51 Accent Keyed Entry Lever	Ultima Bright Brass	\$ 41.98			
TOTAL						\$ 98.42

SECTION BY SECTION ANALYSIS OF THE VISITABILITY ORDINANCE, *Continued*

KWIKSET Door Hardware




Source: Kiwiklocks.com (<http://www.kwiklocks.com/>)

Item	Prod. ID	Finish	Price	Diff.	No. of Doors	Ext.
	200P Polo Bedroom/Closet Passage Knobset	Polished Brass	\$ 9.93	\$ 6.69	2	\$ 13.38
	200DL Delta Bedroom/Closet Passage Leverset	Polished Brass	\$ 16.62			
	300P Polo Bedroom/Bath Privacy Knobset	Polished Brass	\$ 10.96	\$ 6.73	5	\$ 33.65
	300DL Delta Bedroom/Bath Privacy Leverset	Polished Brass	\$ 17.69			
	400P Polo Keyed Entry Knobset	Antique Brass Exterior Polished Brass Interior	\$ 14.84	\$ 12.76	2	\$ 25.52
	405DL Delta Keyed Entry Leverset	Polished Brass	\$ 27.60			
TOTAL						\$ 72.55

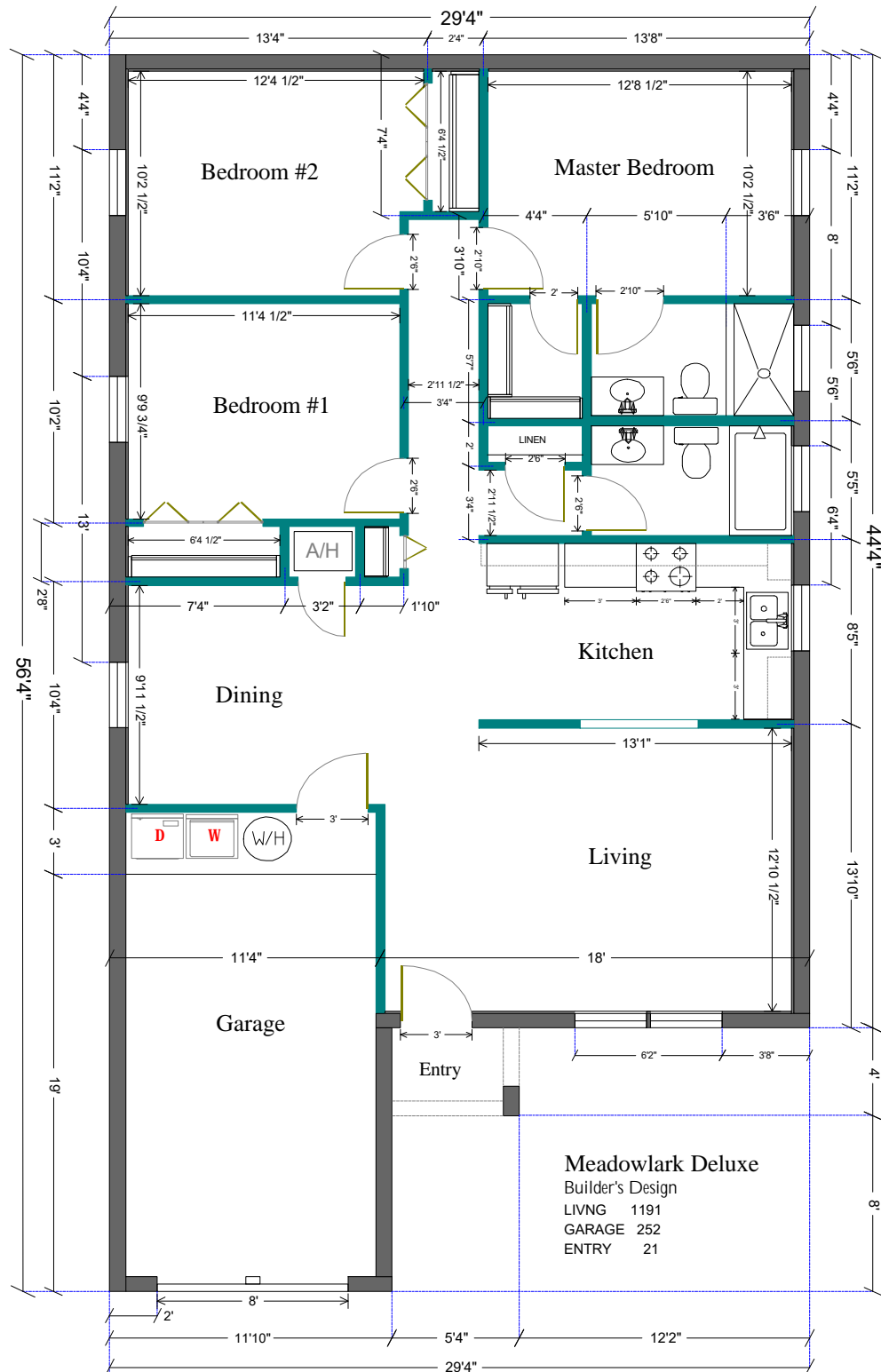
SECTION BY SECTION ANALYSIS OF THE VISITABILITY ORDINANCE, *Continued*

Thresholds

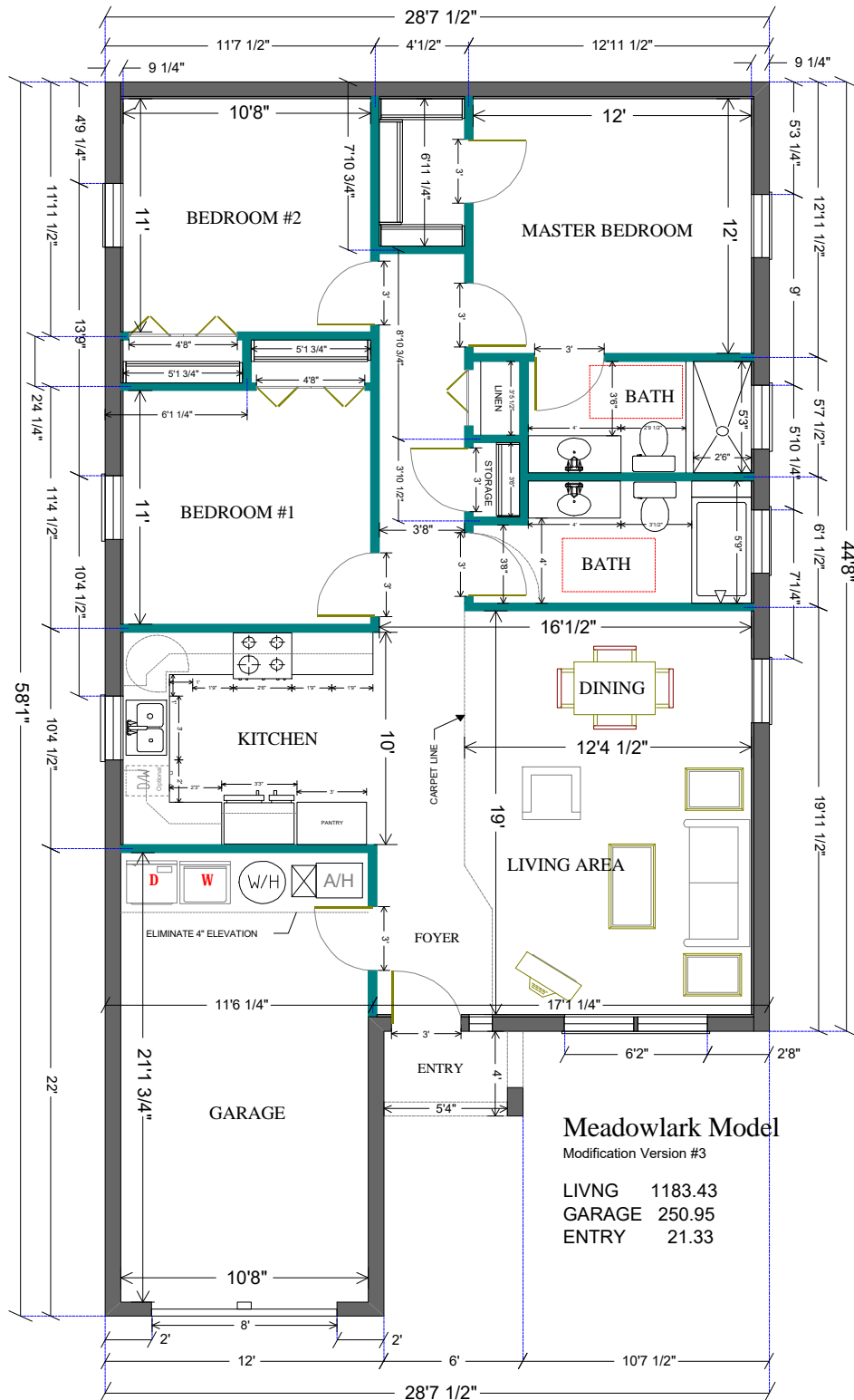
Source: <http://www.ebuildingsource.com/orderinfo.asp>

Item	Product No.	Cost	Ext.	Diff.	No. Doors	TOTAL
	206 AV Mill Finish Aluminum	\$3.72/ft. x 3 ft.	\$ 11.16	\$ 15.33	2	\$ 30.66
	172 A Mill Finish Aluminum 1/2" Rise	\$8.83/ft. x 3 ft.	\$ 26.49			
	430 CRL36 Clear Anodized Aluminum Automatic Door Bottom	\$\$62.35/ea.	\$ 62.35	A no threshold option		

SECTION BY SECTION ANALYSIS OF THE VISITABILITY ORDINANCE, *Continued*



SECTION BY SECTION ANALYSIS OF THE VISITABILITY ORDINANCE, *Continued*



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Chapter A: ADMINISTRATIVE CODE

Article XXXVI: Affordable Housing

[Added 6-27-2000 by L.L. No. 13-2000; amended 6-28-2004 by L.L. No. 17-2004]

§ A36-1 Definitions.

§ A36-2 Suffolk County housing opportunities programs.

§ A36-3 Visitability requirements.

§ A36-4 Prior laws.

§ A36-1 Definitions.

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

AFFORDABLE HOUSING

Housing, including workforce housing, available to individuals and families meeting certain income guidelines based on the U.S. Department of Housing and Urban Development (HUD) area median incomes and as further defined in § **A36-2A**, **B** and **C** below.

AFFORDABLE HOUSING SUBSIDY (AHS)

The funding made available by Suffolk County for the acquisition, construction and/or reconstruction of parcels pursuant to § A36-2C(1)(ii) of this article.
[Added 4-28-2009 by L.L. No. 11-2009]

COMMUNITY DEVELOPMENT DIRECTOR

The Director of the Community Development Agency within the Suffolk County Department of Economic Development and Workforce Housing.
[Added 11-16-2004 by L.L. No. 36-2004]

CONVEYANCE

The transfer by deed of any parcel for any municipally run, funded, and/or managed affordable housing program, with or without nonprofit agencies, pursuant to New York State General Municipal Law § 72-h.

DEVELOPER

A person, persons, corporation or other legal entity who or which will construct, rehabilitate or otherwise stimulate the creation of workforce housing that meets the criteria set forth herein.
[Added 6-27-2006 by L.L. No. 37-2006]

DIRECTOR

The Director of Affordable Housing within the Suffolk County Department of Economic Development and Workforce Housing.

[Amended 4-28-2009 by L.L. No. 11-2009]

FIRST-TIME HOMEBUYER

An individual or family unit that has not owned a home during the three-year period before the purchase of a home, with the permitted exceptions delineated in the HUD Home Investment Partnership Regulations, as they are amended from time to time, including, but not limited to, exceptions for displaced homemakers, single parents and mobile home owners.

PARCEL

A separately assessed lot, parcel, piece or portion of real property, with or without improvements erected thereon, owned by the County of Suffolk.

PARTICIPATING EMPLOYER

A company, corporation or other legal entity that employs individuals who reside in or will reside in Suffolk County and provides land, down-payment assistance, loan guarantees, or other assistance to its employees in connection with workforce housing that meets the criteria set forth herein.

[Added 6-27-2006 by L.L. No. 37-2006]

PERSON WITH A DISABILITY

A person who has a physical, mental or medical impairment resulting from anatomical, physiological, genetic or neurological conditions which prevent the exercise of a normal bodily function or is demonstrable by medically accepted clinical or laboratory diagnostic techniques; or a record of such an impairment; or a condition regarded as such an impairment as further defined by the Americans with Disabilities Act.

[Added 4-28-2009 by L.L. No. 11-2009]

WORKFORCE HOUSING

Affordable housing that is subsidized by the County pursuant to § **A36-2C** of this article and available to the County's workforce that meets income guidelines based on HUD area median incomes and as further defined in § **A36-2A, B and D** of this article.^[1]

WORKFORCE HOUSING SUBSIDY (WHS)

The funding made available by Suffolk County for the acquisition, construction and/or reconstruction of parcels pursuant to § A36-2D(1)(b) of this article.

[Amended 4-28-2009 by L.L. No. 11-2009]

[1]: *Editor's Note: The definition of "Workforce Housing Director," added 11-16-2004 by L.L. No. 36-2004, which immediately followed this definition, was repealed 4-28-2009 by L.L. No. 11-2009.*

	§ A36-2 Suffolk County housing opportunities programs.
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A. First-time homebuyers' auction.

- (1) Habitable improved parcels shall be offered for sale at public auction exclusively to first-time homebuyers whose income does not exceed 80% of the HUD-established median income limits for the Nassau-Suffolk Primary Metropolitan Statistical Area (PMSA) adjusted by family size.
- (2) Deed restrictions.
 - (a) Parcels transferred pursuant to this section must be to a first-time homebuyer and shall contain deed restrictions as follows:
 - [1] Property must remain the principal residence of the first-time homebuyer for a period of at least five consecutive years; and
 - [2] Income of first-time homebuyer must not exceed 80% of the HUD established median income limits for the Nassau-Suffolk PMSA adjusted by family size.
 - [3] Failure to comply with any of the restrictions herein shall result in the property reverting to Suffolk County.

B. New York State General Municipal Law § 72-h transfer program.

- (1) Designated habitable improved parcels, uninhabitable improved parcels and vacant parcels shall be transferred by the County to participating municipalities for nominal consideration and shall be constructed and/or reconstructed for affordable housing purposes. These parcels shall be subject to covenants and restrictions requiring cooperating municipalities to transfer these parcels to eligible individuals whose income does not exceed 80% of the HUD-established limits for the Nassau-Suffolk PMSA adjusted by family size, unless the Director, subject to legislative approval, issues a waiver and authorizes the transfer to eligible individuals whose income does not exceed 120% of the HUD-established limits. Municipalities accepting habitable improved parcels shall reimburse the County for all back taxes and the applicable charges due and owing on such parcels at the time of transfer. Units constructed and/or reconstructed on a parcel transferred pursuant to this Subsection **B**, and sold or rented subject to a hierarchy of local preferences established by the participating municipality, shall be constructed and/or reconstructed, as the case may be, using design and construction features in compliance with § **A36-3** of this article. Parcels transferred pursuant to this Subsection **B** shall be made available to military veterans pursuant to such local preference who served during expeditionary service in a theater of conflict in Iraq or Afghanistan, as verified by the Director of the Suffolk County Veterans Agency, which credentials shall qualify such person as first-time homebuyers as defined in this article, subject to the following:

[Amended 4-28-2009 by L.L. No. 11-2009; 6-8-2010 by L.L. No. 27-2010^[1]; 11-22-2011 by L.L. No. 10-2012^[2]]

- (a) The Director of the Suffolk County Veterans Service Agency shall verify to the participating municipality that an applicant possesses a Form DD-214 to verify honorable service and one or more of the following awards/medals in order to qualify under this article:

- [i] Afghanistan Campaign Medal;
- [ii] Iraq Campaign Medal;
- [iii] Global War on Terrorism Expeditionary Medal;
- [iv] Navy Expeditionary Medal (Iraq or Afghanistan);
- [v] Marine Corps Expeditionary Medal (Iraq or Afghanistan);
- [vi] Combat Action Ribbon;
- [vii] Combat Action Badge;
- [viii] Combat Medical Badge;
- [ix] Purple Heart Medal; and
- [x] Silver Star Medal.

[1]: *Editor's Note: This local law was adopted by the Legislature after disapproval by the County Executive on 5-26-2010.*

[2]: *Editor's Note: This local law was vetoed by the County Executive 12-22-2011, which veto was overridden by the County Legislature 2-7-2012.*

(2) Deed restrictions.

- (a) Parcels transferred pursuant to this section shall be to a first-time homebuyer and shall contain deed restrictions as follows:

- [1] For owner-occupied housing:
 - [a] Property must remain the principal residence of owner for a period of at least five consecutive years;
 - [b] The income of the first-time homebuyer must not exceed 80% of the HUD-established median income limits for the Nassau-Suffolk PMSA adjusted by family size, or, in the case where a waiver has been issued by the Director as authorized under § **A36-2B(1)**, income must not exceed 120% of the HUD-established median income limits for the Nassau-Suffolk PMSA adjusted by family

size;

[Amended 6-8-2010 by L.L. No. 27-2010^[3]]

[3]: *Editor's Note: This local law was adopted by the Legislature after disapproval by the County Executive on 5-26-2010.*

- [c] The subsidized purchase price of the home shall not exceed 60% of the median sales price for Suffolk County based on State of New York Mortgage Agency (SONYMA) guidelines; and
 - [d] Construction must be completed and the housing occupied by eligible purchasers within three years of transfer unless an extension of time is granted in writing by the Director after good cause is shown. Said extension shall not exceed two two-year extensions unless approved by duly enacted resolution.
 - [e] Failure to comply with any of the restrictions herein shall result in the property reverting to Suffolk County.
- [2] For rental housing:
- [a] The income of the purchaser must not exceed 80% of the HUD-established median income limits for the Nassau-Suffolk PMSA adjusted by family size, or, in the case where a waiver has been issued by the Director as authorized under § **A36-2B(1)**, income must not exceed 120% of the HUD-established median income limits for the Nassau-Suffolk PMSA adjusted by family size;
[Amended 6-8-2010 by L.L. No. 27-2010^[4]]
 - [4]: *Editor's Note: This local law was adopted by the Legislature after disapproval by the County Executive on 5-26-2010.*
 - [b] Rent shall not exceed the HUD-established fair market rent for the Nassau-Suffolk PMSA based on bedroom size;
 - [c] The home must meet local building and zoning codes;
 - [d] Construction must be completed and the housing occupied by eligible tenants within three years of transfer unless an extension of time is granted in writing by the Director after good cause is shown. Said extension shall not exceed two two-year extensions unless approved by duly enacted resolution; and
 - [e] Property must remain in the possession of tenants who meet the income limits and rental limits set forth in § **A36-2B(2)(a)[2][a]** and [b] above for at least 10 consecutive years after the transfer date.
 - [f] Failure to comply with any of the restrictions herein shall result in the property reverting to Suffolk County.
- (3) In situations where federal or state grant funds are used to finance construction under the § 72-h program, federal and state requirements must be met. However, in the event the County requirements are more stringent, then the County requirements will prevail.
- (4) Reporting and management requirements.
- (a) Any municipality that accepts title pursuant to New York State General Municipal Law § 72-h to a parcel from the County of Suffolk for use in an affordable housing program shall, as a condition precedent to the receipt of a deed of conveyance of such parcel, agree in writing with the County of Suffolk to provide a report no later than December 31 of each year to the Director, including, but not limited to, the exact and precise use to which any such parcels have been put and the sales price generated by initial purchase of such affordable homes.
 - (b) The report set forth at § **A36-2B(4)(a)** above shall explicitly state whether or not the parcel has been utilized for affordable housing purposes and whether or not the restrictive covenants to ensure such utilization contained in any such deeds of conveyance have been adhered to.
 - (c) The Director shall then determine whether or not any restrictive covenants contained in

the deed of conveyance to the municipality, state government, federal government, or any agency or department thereof have been breached or violated.

- (d) In the event that the Director determines that any such covenants have been breached or violated, he or she shall advise the County Department of Law and the County Legislature as to the nature of such breach or violation and request authorization for such action as he or she shall deem necessary to enforce such covenant or to enjoin or to correct such breach or violation.

(5) Conditions of County transfer:

- (a) The consideration paid to the County of Suffolk for any conveyance under § 72-h of the New York General Municipal Law shall be a nominal consideration not to exceed \$10 for any parcel.
- (b) Upon such payment of nominal consideration and actual conveyance of the parcel(s), all subsequent grantees shall comply with all applicable state, federal, and local regulations pertaining to the price, income eligibility and marketing standards for such affordable housing programs.

C. New York State General Municipal Law § 72-h transfer program for homeowners displaced by natural disaster.

[Added 2-1-2011 by L.L. No. 13-2011]

- (1) Designated uninhabitable improved parcels and vacant parcels shall be transferred by the County to a receiving municipality for nominal consideration, to be constructed and/or reconstructed for affordable housing purposes for homeowners displaced by a natural disaster. These parcels shall be for owner-occupied housing only and subject to covenants and restrictions requiring cooperating municipalities to transfer these parcels to eligible individuals whose income does not exceed 120% of the HUD-established limits for the Nassau-Suffolk PMSA adjusted by family size. Units constructed and/or reconstructed on a parcel transferred pursuant to this Subsection **C** and sold to homeowners displaced by natural disaster, subject to a hierarchy of local preferences established by the participating municipality, shall be constructed and/or reconstructed, as the case may be, using design and construction features in compliance with § **A36-3** of this article.
- (2) For purposes of this article:
[Amended 6-5-2012 by L.L. No. 37-2012]
 - (a) A "homeowner displaced by natural disaster" means a homeowner displaced by hurricane, flood or tornado whose primary residence has been rendered uninhabitable as determined by the Suffolk County Department of Health Services.
 - (b) A "receiving municipality" means a town or village in the County of Suffolk which has agreed by a duly adopted resolution of its governing board to accept a transfer of property pursuant to § 72-h of the New York General Municipal Law for the purpose of creating affordable housing pursuant to this subsection.
- (3) Restrictions and conditions. Except as provided herein with regard to HUD-established median income limits, all deed restrictions and conditions that apply to owner-occupied housing set forth in § **A36-2B(2)(a)[1]**, § **A36-2B(3)**, § **A36-2B(4)**, § **A36-2B(5)**, and § **A36-3** shall apply to transfers made pursuant to this subsection.

D. Workforce housing and affordable housing programs other than the New York State General Municipal Law § 72-h transfer programs.

[Amended 6-27-2006 by L.L. No. 37-2006; 4-28-2009 by L.L. No. 11-2009; 2-1-2011 by L.L. No. 13-2011; 6-5-2012 by L.L. No. 37-2012]

(1) Funding initiatives.

- (i) Funding initiatives for the workforce housing program by the County through the use of capital bond proceeds (WHS) shall include funding for:
 - (a) The acquisition of land by the County in conjunction with a municipality, which shall include both vacant parcels and improved parcels;
 - (b) The construction and/or reconstruction of parcels transferred to participating

municipalities pursuant to New York State General Municipal Law § 72-h;

- (c) Infrastructure improvements in conjunction with municipalities, which shall include, but not be limited to, roads, parking, sewers, water, sidewalks, streetlighting and appurtenant landscaping;
 - (d) The acquisition by the County in conjunction with a property owner, municipality, developer, or participating employer of conservation easements or infrastructure improvements which shall include, but not be limited to, roads, parking, sewers, water, sidewalks, streetlighting and appurtenant landscaping; and
 - (e) The acquisition of land, which shall include both vacant parcels and improved parcels, by the County in conjunction with a property owner, developer, or participating employer.
- (ii) Funding initiatives for the affordable housing program by the County through the use of capital bond proceeds (AHS) shall include funding for the construction and/or reconstruction of parcels transferred to participating municipalities pursuant to New York State General Municipal Law § 72-h, including:
- (a) Interior portions of units on such parcels using design and construction features in compliance with § **A36-3** of this article for military veterans who are persons with a disability and qualify under § **A36-2B(1)**; and
 - (b) The installation of energy reduction or energy conservation equipment or devices with a useful life of five years or greater.
- (2) Program requirements.
- (a) The following provisions are applicable to § A36-2D(1)(i)(a), (b) and (c) and § **A36-2D(1)(ii)** above:
 - [1] A municipality must enter into a development agreement with the County, which shall require the participating municipality to offer incentives, such as density bonuses, fast-track approvals and fee waiver, and/or financial assistance, such as community development block grant funds, industrial development bonds and/or tax credits, to the proposed affordable housing development prior to the acquisition of a parcel.
 - [2] Prior to such acquisition or funding, the participating municipality shall, by resolution or other legislative act, approve the development agreement which shall specify the development plan; the proposed builder, which may be a not-for-profit corporation or a for-profit builder; the number of units of housing; the targeted occupants; the method of selecting such occupants; and the sales/rental prices to be paid by the occupants. If a for-profit developer is utilized, then the amount of profit realized by the builder must conform to New York State Affordable Housing Corporation (or its successors') guidelines.
 - (b) The following provision is applicable to § A36-2D(1)(d) and (e) above:
 - [1] The property owner, municipality, developer, or participating employer, as the case may be, must enter into an agreement with the County requiring the use of the parcel(s) for workforce housing purposes and specifying the proposed builder, which may be a not-for-profit corporation or a for-profit builder; the number of units of housing; the targeted occupants; the method of selecting such occupants; and the sales/rental prices to be paid by the occupants. If a for-profit developer is utilized, then the amount of profit realized by the builder must conform to New York State Affordable Housing Corporation guidelines, or any successor thereto.
 - (c) Deed restrictions for all housing subsidized pursuant to this section, other than the New York State General Municipal Law § 72-h transfer program for homeowners displaced by natural disaster, must reflect the following guidelines:
 - [1] Any deed restrictions set forth in § **A36-2B** of this article that are more restrictive than those set forth in this section shall take precedence.
 - [2] Both owner-occupied and rental housing will be eligible to receive assistance. Preference will be given to projects of 10 or more units.

[3] Income limits.

- [a] Fifty percent of all units, including owner-occupied and rental housing units, must, at a minimum, be occupied by persons and families whose income does not exceed 120% of the HUD-established median income limits, adjusted by family size for the Nassau-Suffolk PMSA, and 50% of all units must, at a minimum, be occupied by persons and families whose income does not exceed 80% of the HUD-established median income limits, adjusted by family size, for the Nassau-Suffolk PMSA or any municipally approved affordable requirement that restricts occupancy to households whose income does not exceed 120% of the HUD-established median income limits, adjusted by family size for the Nassau-Suffolk PMSA.
- [b] In situations where federal or state funding is utilized to subsidize development costs, applicable federal and state income requirements must be met. However, if the County requirements are more stringent, then the County requirements will prevail.
- [4] Affordability for owner-occupied housing. Units must be affordable to targeted income groups based on standard underwriting criteria.
- [5] Occupancy for owner-occupied housing. Home ownership units must be owner-occupied and the principal residence of the occupant for at least 10 consecutive years. Failure to meet this requirement may result in repayment to the County equal to the value of the subsidy provided.
- [6] Affordability for rental units. Rental units shall have maximum rent equal to the fair market rent adjusted for bedroom size established by HUD for the Nassau-Suffolk PMSA or any municipality-approved fair market rent standard, and must remain affordable for at least 10 consecutive years or until the WHS or AHS is repaid to the County, whichever is later.

(3) Homeowners displaced by natural disaster.

- (a) Housing subsidized pursuant to this section may be transferred to persons displaced by a natural disaster notwithstanding that they are not first-time homebuyers.
- (b) Parcels transferred to persons displaced by a natural disaster shall be for owner-occupied housing only and subject to covenants and restrictions requiring that eligible individuals' incomes do not exceed 120% of the HUD-established limits for the Nassau-Suffolk PMSA adjusted by family size.
- (c) Homeowners displaced by natural disasters shall be eligible for any preference established by the participating municipality.
- (d) Except as specifically provided in this subsection, homeowners displaced by natural disasters shall be subject to all of the terms and conditions of this section of the Administrative Code.

E. Repayment.

- (1) All land acquired and housing subsidized pursuant to § **A36-2D** shall be subject to:
 - (a) Covenants and restrictions governing the use of the parcel(s) and housing thereon; and
 - (b) Repayment of the WHS or AHS, as the case may be, pursuant to the terms set forth in any and all funding documents when the ownership/rental requirements and/or affordability requirements contained in the development/rental agreement(s) and deed are not met.
[Amended 4-28-2009 by L.L. No. 11-2009]
- (2) Under certain circumstances, including but not limited to affordability requirements in excess of 30 years, repayment of the WHS or AHS, as the case may be, may be forgiven.
[Amended 4-28-2009 by L.L. No. 11-2009]

F. Monitoring and compliance.

Charter

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(1) The County shall administer the requirements of this article as follows:

- (a) The Director shall develop and draft guidelines, rules and procedures necessary and appropriate to ensure compliance with this article.
- (b) In addition to overseeing the reporting requirements set forth in § **A36-2B** and § **A36-2C** of this article, the Director shall monitor all aspects of program and procedural compliance

Chapter A: ADMINISTRATIVE CODE
Article XXXVI: Affordable Housing

§ A36-3 Visitability requirements.

§ A36-3 Visitability requirements.

[Added 12-16-2008 by L.L. No. 1-2009]

- A. Any new dwelling unit that is to be designed and/or constructed with the assistance of the County of Suffolk pursuant to § **A36-2B** of this article ("72-h transfer program") or § **A36-2D** of this article ("Workforce Housing Program") shall comply with the design and construction requirements set forth in this section.
- B. The design and construction of a new dwelling unit shall comply with the following requirements:
 - (1) At least one stepless entry shall be provided into a ground-floor dwelling unit, and may be located at the front, rear or side of the building with a threshold not exceeding 1/2 inch in height.
 - (2) All interior passage doorways on the ground level of a dwelling unit shall have an unobstructed opening of at least 34 inches when the door is open at a ninety-degree angle.
 - (3) At least one bathroom shall be located on the ground level of the dwelling unit, containing a clear floor space of 30 inches by 48 inches centered on and contiguous to the sink, which is not encroached by the swing path of the bathroom door.
 - (4) The required ground-floor bathroom shall have walls that are reinforced with wood blocking between the interior studs, capable of supporting grab bars as follows:
 - (a) Two reinforcements on the back wall of the bathtub, each at least 24 inches long, at least 20 inches wide and not more than 24 inches from the head end wall and not more than 12 inches from the foot end wall, one in a horizontal position at least 33 inches, but not more than 36 inches, above the floor, and one nine inches above the rim of the bathtub;
 - (b) One backing reinforcement on the foot end wall of the bathtub, at least 20 inches long, at least 18 inches wide and located at the front edge of the bathtub;
 - (c) One backing reinforcement on the head end wall of the bathtub, at least 12 inches long, at least 18 inches wide and located at the front edge of the bathtub;
 - (d) Ground-floor interior shower walls shall include backing reinforcements on at least two walls on which the control valves are not located, each centered at least 33 inches, but not more than 36 inches, above the floor and at least 18 inches wide; and
 - (e) All walls adjacent to the toilet shall have horizontal backing reinforcements, each at least 33 inches, but not more than 36 inches, above the floor, and sufficient to allow for a twenty-four-inch grab bar on the wall behind the toilet and another forty-two-inch grab bar on one of the other walls adjacent to the toilet.^[1]
- [1]: *Editor's Note: Amended during codification (see Ch. 1, General Provisions, Art. III).*
- (5) To minimize alteration costs for a person with a disability or individuals who desire to age in place, the ground floor of a dwelling unit shall be designed with at least one room which can be converted into a bedroom.
- (6) Each heating zone in a ground-floor dwelling unit shall contain a thermostat located on the wall at least 15 inches but not more than 48 inches above the floor.
- C. Each municipality, developer or participating employer that receives County assistance under § **A36-2B** and § **A36-2D** shall submit assurance to the Workforce Housing Director that construction

activities will be conducted in compliance with this section.

- D. The Workforce Housing Director is hereby authorized, empowered and directed to promulgate rules and regulations necessary to implement this section and is further directed to take all other actions necessary to ensure compliance with the requirements of this section.

§ A36-4 Prior laws.

Any provisions contained in Resolution No. 508-1989 that are inconsistent with this article shall be construed as being superseded by this article for the purposes of implementing the provisions of this article.

Purchase a code

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Surprise, Arizona, Code of Ordinances >> PART II - LAND DEVELOPMENT ORDINANCES >> Chapter 122 - SURPRISE UNIFIED DEVELOPMENT CODE >> ARTICLE VIII. DESIGN REQUIREMENTS >>

ARTICLE VIII. DESIGN REQUIREMENTS

- (a) Purpose. It is the goal of the City of Surprise to possess an aesthetically pleasing, natural and built environment by promoting responsible and creative development. The purpose of the design requirements section is to ensure that development conforms to the goals, objectives and requirements adopted and contained in the Surprise General Plan. In order to proceed in the design of any development, a fundamental understanding of these requirements and how they relate to one another is essential.

(Ord. No. 09-12, § 2(Exh. A), 5-14-09)

[Sec. 122-127. Building form and architecture.](#)

[Sec. 122-128. Commercial.](#)

[Sec. 122-129. Common areas.](#)

[Sec. 122-130. Residential design requirements.](#)

[Sec. 122-131. Residential home product review.](#)

[Sec. 122-132. Model home complex.](#)

Sec. 122-127. Building form and architecture.

The City of Surprise's character, image and identification is based, in large part, upon the architecture of its buildings; and how well those buildings are located and oriented on a site to relate to one another and the surrounding elements. A building's size, shape, height, mass, color, materials, texture, roof-line, roof treatment, and window and entryway placement combine to give the user and passer-by a specific image and identification for a particular development; and in turn, the community as a whole. The following guidelines are intended to encourage excellence in the design of buildings proposed for new residential, commercial, office, civic, institutional and industrial development in Surprise, and to foster development that is consistent with the character and rural/urban form reflected in General Plan 2030.

- (a) General architectural standards. Standards address possible approaches to the design of structures focusing on building scale, shapes, massing, heights, colors, materials, roof treatments, façades and building site orientation to achieve diversity and design excellence in residential and nonresidential development.
- (b) Building form/scale/bulk/height/rhythm.
 - (1) Diversity of quality residential and nonresidential architectural design shall be encouraged throughout the city; with the design of projects reflecting a general continuity and harmony consistent with the general style and character of the community, while at the same time providing new, creative, forward-looking and dynamic approaches to design.
 - (2) The design of the public/civic buildings shall be "image making" and reflect their significance as primary focal points of community pride and activity.
 - (3) Design of buildings, including building style, form, size, color and material, shall consider the development character of adjacent neighboring areas.
 - (4) Structures shall be designed to create transitions to surrounding development

with the size, massing and height of the structure relating to the prevailing scale of adjacent development.

- (5) Taller buildings shall be made to appear less imposing by stair-stepping building heights back from the street, breaking up the mass of the building, and/or by providing a broader open space/pedestrian plaza area as foreground for the building.
 - (6) Multiple buildings on the same site shall be designed and grouped to create a cohesive, visual relationship among buildings, while at the same time, provide for pedestrian plazas, open space and view corridors to surrounding mountains.
 - (7) Building design and siting shall consider solar orientation, as well as climatic and other environmental conditions.
 - (8) Monotonous look-a-like structures shall be discouraged. Every effort shall be made to design buildings that create a visually interesting "building rhythm" by varying building form, volume, massing, heights, roof styles and site orientation.
 - (9) The concentrated use and location of stylized buildings as advertising shall be prohibited.
 - (10) High quality "stylized" or "theme" architecture that is characteristic of a particular historic period or forward-looking architectural trend shall be permitted, provided it generally reflects, and is consistent with, the architecture of the area, and maintains architectural continuity and harmony with the community as a whole.
 - (11) Building design and orientation on the site shall encourage safety and privacy of adjacent outdoor spaces, and shall reduce noise and odor impacts received from, or generated by, the development project.
- (c) Building façades.
- (1) Building façades shall reflect design intent of the structure, while at the same time, provide an architectural "face" that relates to surrounding structures and streetscape; and contributes to the neighborhood and community character.
 - (2) Exterior building design, as well as architectural details related to color, type and application of materials and building form shall be coordinated for all elevations of a building to achieve harmony and continuity of design.
 - (3) The rear and side of buildings, especially those visible from adjacent streets, shall be aesthetically enhanced and of an architectural character comparable with the front of the building.
 - (4) A variety of architectural design features, techniques, patterns, materials and color shall be used to create variety and visual interest in the façade of buildings, provided the uses of such features are coordinated, related to the overall design of the structure and result in a unified design of the structure.
 - (5) Building façades shall utilize recessed entryways and windows, groupings of windows, horizontal and vertical offsets and reveals and three-dimensional detail between surface planes, to create shadow lines and break up long continuous flat wall areas.
- (d) Roof architecture and treatment.
- (1) When appropriate to the style of a building, a variety of simple roof forms, including gable, shed and hip, used alone or in combination, are encouraged for all new development in order to add visual interest and diversity to the city's "roof horizon" and to avoid the "sameness" of roof styles.
 - (2) Site orientation of residential structures, as well as variations in roof styles and heights, shall be required to prevent the creation of monotonous roof lines and

look-alike roof orientation in new residential development.

- (3) Roof design for new residential development shall vary, yet maintain the prevailing character and scale of the neighborhood, and in particular, immediately adjacent structures, through the use of color and form.
 - (4) Full roof architecture utilizing simple roof forms is encouraged for all new commercial and industrial development, while long, continuous mansard roofs, false mansard roofs, large expanses of flat roofs, and veneer parapets are discouraged.
 - (5) Rooflines of large buildings shall vary in height and setback to reduce the apparent scale of the building, break up long continuous horizontal façades and minimize their overall visual impact on surrounding development.
 - (6) The use of architectural features such as three dimensional cornice treatments, enclosed parapet wall forms and details, and overhanging eaves are encouraged to enhance the architectural character of the roof. Raised parapets shall be finished on all sides.
 - (7) Flat roofs shall only be used in conjunction with other roof styles if they are consistent with a particular style of architecture and incorporate decorative parapet forms and walls that are an integral part of the overall architecture of the building.
 - (8) Parapet walls shall be designed and constructed in a manner to appear as a solid, three-dimensional form rather than a veneer.
 - (9) Roof-top plumbing, vents, ducts, air conditioning and heating equipment, communication antennae and any other mechanical or electric equipment shall be located away from public view, and screened in a manner so as not to be visible from any angle or any height outside a building. The use of a parapet wall for screening purposes is permitted; however the height of the parapet wall must be equal to or greater than the height of any mechanical equipment.
 - (10) All rooftop screening shall be part of the articulation of a building and not appear as an afterthought; and shall be architecturally compatible with the primary structure.
 - (11) Chimneys, roof flashing, rain gutters, downspouts and other roof protrusions shall be painted and finished to match the color of the adjacent surface, unless being used expressly as a trim or accent element.
 - (12) Solar panels located on rooftops shall be placed consistent with roof pitch, and sized so as to appear as an integral part of the overall roof design.
- (e) Colors and materials.
- (1) Variation of colors in roof and façade treatment in residential development is encouraged, provided the color variations maintain harmony and consistency with the overall character of surrounding buildings.
 - (2) Colors that are compatible with the arid environment of the community, and that help reduce reflected heat and glare into public areas, are encouraged.
 - (3) The use of accent colors, especially in commercial areas, shall be encouraged to provide a festive and lively streetscape.
 - (4) More subtle, less intense colors shall be used on larger, more plain-looking buildings, while the use of a greater variety and intensity of color shall be reserved for smaller structures.
 - (5) Color shall be used to accent entryways and special architectural features of a building.

- (6) Materials utilized for buildings shall reflect the climate of Surprise; materials shall be durable and of high quality and non-reflective or heat generating.
 - (7) Building materials and finishes shall reflect the context of the site and the neighborhood.
 - (8) A change in the use of building material on a structure shall reflect a change in the plane of the structure.
 - (9) Materials applied to any building elevation shall wrap around onto adjoining walls of the structure to provide design continuity and a finished appearance to the building.
 - (10) There shall be a consistent use of building materials on a structure, with the use of a variety of many different materials on the same structure minimized to avoid a cluttered-looking structure.
 - (11) Metal siding may be used as an exterior finish material as long as utilized in combination with non-metal/masonry construction materials.
- (f) Window and door placement.
- (1) The size and proportion of windows and door openings shall be consistent with the scale of the building; reflect the character of the neighborhood and be compatible with immediately adjacent buildings.
 - (2) Windows and doors shall be aligned and sized to bring order to the building façade.
 - (3) Windows and doors shall be sufficiently recessed and placed to create façade patterns that add variety and visual interest to the building design.
 - (4) Windows in residential development above first floors shall generally have a pattern similar to that of the first floor to unify the façade of the structure.
 - (5) The number of windows and their placement and treatment shall reflect the climate of the area and contribute to the building's energy efficiency and conservation.
 - (6) Window and door placement for "big box" commercial and industrial buildings shall be sufficiently recessed to create shadows and provide noticeable breaks in façades.
 - (7) Awnings over windows and doors are encouraged, provided they are an integral part of the architecture of the building and reflect the design and character of the structure.
 - (8) Building entryways shall be designed and sized appropriately to reflect the use of the building and pedestrian traffic related to the use.
 - (9) Doors and entryways shall be designed and located to provide immediate identification of the building's entryways.
 - (10) Doors and entryways for all commercial and office centers and civic buildings, shall be designed and located to portray the importance of the building and its relationship to external pedestrian circulation systems.
- (g) Building details.
- (1) Commercial/industrial building and site details related to utility boxes, transformers, generators, chiller farms, mailboxes, trash bins and air-conditioning units shall be integrated into the overall design of the building and development.
 - (2) Utility boxes, transformers, generators, chiller farms, air-conditioning units and trash bins shall be screened from view, yet remain accessible for servicing.
 - (3) Design of and enclosures for accessory elements such as mailboxes, trash bins,

and security huts and gates shall be compatible with the architectural style of the project in which it is located.

- (4) Group mailboxes for new residential development shall not be freestanding, but placed into an architectural form that is strategically and conveniently located throughout the development as a part of the development's pedestrian open space and circulation system. All mailbox areas are to be well illuminated. When on street parking is not provided, a recessed parking bay shall be provided adjacent to the mailbox structure.
- (5) The rear and side of commercial and multifamily residential buildings, especially those visible from adjacent streets, shall be aesthetically enhanced and of an architectural character comparable with the front of the building to create a lively atmosphere along the street as well as internal to the site.
- (6) In order to preserve the character of city streets, no delivery, loading, dock, mechanical, electrical, trash removal door or utility shall be located on the community entryways, major or minor arterials. These items shall be located in the least obtrusive manner, preferably on a less prominent and visible side of the building and shall be adequately screened from public view.

(Ord. No. 09-12, § 2(Exh. A), 5-14-09)

Sec. 122-128. Commercial.

- (a) Large commercial and civic development shall incorporate decorative paving patterns, traffic "calming" devices, landscaping, street furnishings, lighting and open space setbacks at onsite street intersections. If decorative paving, traffic "calming" devices, landscaping, street furnishings, lighting and open space setbacks are used in the right-of-way, it shall require the approval of the city manager or designee prior to planning and zoning commission and/or city council approval to ensure ongoing maintenance. Such improvements shall be designed to accommodate persons with disabilities.
- (b) Street layout shall be designed to accommodate automatic side load style sanitation collection vehicles. Uninhibited access shall be provided to the 90 gallon rolling containers used for trash and recycling collection. Stub streets, "T" Streets, or dead-end streets may require residents to transport their containers to an area of an adjacent street where sanitation access is available. Alleys, streets, and cul-de-sac layout shall accommodate the width and turning radius of side load style sanitation trucks. On street parking shall be designed to accommodate uninhibited access for curbside sanitation collection.
- (c) Non-curb-separated sidewalks may be allowed in commercial urban/downtown centers or urban/downtown style multifamily/single-family developments. Characteristics of urban/downtown developments, such as, larger pedestrian friendly sidewalks (eight feet or greater), pedestrian scale lighting, and tree-grates; will be required when developing in an urban setting. All pedestrian crossings shall incorporate ramps for persons with disabilities, and shall not be designed with a 90 degree curb. Attention to textured details shall be used for persons with visual disability. Truncated domes shall be used in accordance with current adopted building codes.
- (d) Commercial developments that utilize decorative paving can include colored concrete or the use of various textured surfaces. These textured surfaces shall be designed to avoid excessive vibration. There shall not be gaps of more than one-quarter-inch on any form of decorative concrete or pavers. If heavier textured decorative paving is utilized, this shall only be in an area outside of the walkway to ensure a smooth pedestrian walking surface.

(Ord. No. 09-12, § 2(Exh. A), 5-14-09)

Sec. 122-129. Common areas.

- (a) Common areas. These standards provide approaches and techniques for the planning and design of plazas, terraces, courtyards, arcades, and other common area open space in higher density residential, mixed use, and commercial/office/civic developments. These shall be constructed and furnished to enhance the character and identity of the development, create a pedestrian/user friendly environment, allow access in and around the common area, and provide connectivity to surrounding and adjacent external open space areas.
- (b) Plazas and courtyards.
 - (1) Paved and landscaped plazas shall be incorporated in all new high density residential, mixed-use and commercial, office, civic, and institutional developments as a critical element in establishing a "sense of place." These plazas/courtyards shall incorporate an entry setting, identity, and character for a building, or group of buildings. The core of pedestrian activity for the development shall tie to adjoining public open space areas where available.
 - (2) Plazas in nonresidential areas shall be designed with uninterrupted lines-of-sight to and from public sidewalks and with physical access provided from the public sidewalk or adjoining open space to plazas.
 - (3) Plazas shall contain broad multi-level planes and such visual features as fountains, water gardens, garden areas and public art.
 - (4) Mixed-use and commercial/office developments shall locate and orient retail shops, restaurants, offices or other activity-generating uses surrounding plazas.
 - (5) A minimum of 20 percent of a plaza's surface area shall be set aside as landscaped area. The landscaped area shall include non-reflective paving materials, and a combination of water and plant materials that generate visual interest through the use of a variety of foliages and floral displays, fountains, ponds and water sculpture.
 - (6) Shade trees, arbors and/or other techniques that provide relief from the sun shall be incorporated into the design of plazas, but in a manner that does not impair pedestrian movement.
 - (7) As the center of pedestrian activity for a development, plazas in nonresidential developments shall provide adequate seating in the form of benches or low seating walls in addition to any seating areas that may be provided in association with dining areas.
 - (8) Plazas, including their entrances and exits, shall be illuminated one-half hour before sunset to one-half hour after sunrise to facilitate natural surveillance opportunities and discourage unsafe activities. All lighting in plazas shall be an integral part of the total building and plaza design; and designed in a manner that brings definition, order and a sense of security that welcomes pedestrian use.
 - (9) Courtyards shall provide a rhythmic progression of open space from the exterior of a building complex toward and around the center of the building complex.
 - (10) New high-density residential and nonresidential developments utilizing courtyards shall locate and orient the courtyard along and toward the internal pedestrian access system of a development.
 - (11) Courtyards shall include a simple combination of focal points that may include a water feature, seating niches, paving patterns and/or simple plantings.
 - (12) As the center of pedestrian activity for a development, plazas in nonresidential developments shall provide adequate seating in the form of benches or low seating walls in addition to any seating areas that may be provided in association with dining. For every bench that is placed in residential or nonresidential development, an area

shall be designated next to the bench with a minimum of 30-inch wide and 48-inch deep area for a wheelchair.

(c) Terraces and arcades.

- (1) Unlike plazas, terraces, as more private and restricted open space areas, shall be located in higher-density residential or nonresidential development as an integral part of a particular use; and oriented to provide the user overviews of surrounding parts of the development.
- (2) Terraces shall be developed on the site as unobstructed, paved, open space areas to serve as internal gathering places for residents and/or client users of a development.
- (3) Terraces shall be paved with tile or other decorative materials and remain free of landscaping, fountains or any other improvement that would impede the terraces full unobstructed use for internal gatherings on the site or dining in connection with an adjacent restaurant use.
- (4) The use of arcades in developments shall be associated with internal courtyards, as well as utilized for pedestrian circulation in and around retail areas.
- (5) In the event an arcade is to be used along the front of a building as a primary pedestrian way, the arcade shall be designed as an integral part of the overall architecture of the building. The arcade shall be located and oriented to connect with any adjacent open space areas of the development.

(d) Landscaping, paving, furnishing, and public art.

- (1) Common area open space shall be landscaped, lighted and furnished with the scale, character and use of the particular common area to be utilized in the development.
- (2) Fountains and other water features may be located and sized according to the scale and use of the common area selected for a particular development.
- (3) Paving patterns in common area open space shall complement paving patterns and colors utilized in adjoining public sidewalks and other public rights-of-way.
- (4) Plant materials utilized in common areas shall reflect the intensity of pedestrian use of the area, and be of a scale consistent with the size of the common area(s) selected for the development.
- (5) Lighting in common areas shall complement the scale, character and use of the area and meet both architectural compatibility, aesthetic and security needs of the development.
- (6) Seating areas shall reflect the size and character of the common area, and consist of a combination of sun and shade seating areas containing a combination of benches, low walls, planter areas and steps.
- (7) Public art that invites participation and interaction, that adds local meaning, interprets the community by revealing its culture and/or history, or reinforces the unique character and "sense of place" of a development, shall be encouraged in common area open space.
- (8) Art shall be in harmony with the character and scale of the common area in which it is placed.
- (9) The selection and placement of art shall be a part of the initial design process rather than an add-on at the completion of construction of the development.

(Ord. No. 09-12, § 2(Exh. A), 5-14-09)

Sec. 122-130. Residential design requirements.

(a) For all single-family residential development, recreational amenities for children and adults

shall be incorporated and there shall be programmed open space throughout the development or within a quarter mile of each home site. These amenities may include benches, tables, swings, chess boards, physical fitness work out equipment, gazebos, public art, and similar attractions. Such amenities shall incorporate areas to accommodate persons with disabilities.

- (b) Major entryways providing access to new residential and nonresidential development shall be designed and constructed using decorative paving patterns, landscaped open space setback areas, lighting to enhance the identity and character of the development and provide visual linkages to the community pedestrian network. Residential developments that utilize decorative paving can include colored concrete or the use of various textured surfaces. These textured surfaces shall be designed to avoid excessive vibration. There shall not be gaps of more than one-quarter-inch on any form of decorative concrete or pavers. If heavier textured decorative paving is utilized, this shall only be in an area outside of the walkway to ensure a smooth pedestrian walking surface.
- (c) New residential developments shall strive to minimize cul-de-sac's, except where physical constraints of the site dictate their use. Culs-de-sac shall not terminate at other streets 150 feet or less measured from the curb of the street to the curb of the closest portion of the cul-de-sac. When they are used, culs-de-sac shall terminate on usable open space and include a landscape island irrigated with reclaimed water.
- (d) Off-street or multi-use bicycle pathways shall be designed to include occasional rest stations that are developed in conjunction with clusters of shade trees, a drinking fountain and seating areas. These stations will be determined by staff at the time of site planning, master planning, and platting. Drinking fountains shall be accessible.

(Ord. No. 09-12, § 2(Exh. A), 5-14-09)

Sec. 122-131. Residential home product review.

- (a) Requirements for non-garage dominate architecture. Garage dominance exists when any portion of the garage space projects into the front yard, including side-entry garages, beyond the livable space of the home and/or, when garage doors comprise a large percentage of the linear frontage of the front elevation.
 - (1) In order to achieve a non-garage dominant architecture, in a conventional character pattern, the following standards must be met:
 - a. Seventy-five percent of plans submitted must be non-garage dominant architecture.
 - b. Lots 58 feet wide or greater, the garage space shall be flush* with or recessed behind the plane of the forward most or street side living space façade of the home and, garage doors must not comprise more than 45 percent of the total linear frontage of the front elevation of the home.
 - c. Garage space may project beyond the front plane of the forward most or street side living space façade only if a front porch (standard for all elevations of the plan) is at minimum, flush with the forward most plane of the garage and, garage doors must not comprise more than 45 percent of the total linear frontage of the front elevation of the home. Alternate design solutions will be considered (courtyard walls, porte-cochere, etc).



Old Standard



Preferred



Alternate solution

- d. Garage doors may be located on another side of the dwelling (rear or side elevation) provided that the entry drive to the garage space is made from an adjacent local/private street or alley.
- (b) Developers and homebuilders must encourage the use of varying lot sizes, distinctly different plans and lot configurations to provide an overall variety to the streetscape.
- (c) Some combination of varying floor plans, lot sizes and a ten-foot stagger in front setbacks, can make a considerable difference in street character.
- (d) "Side-entry" homes are discouraged and will be considered on a per submittal basis.
 - (1) If utilized, "side-entry" homes are to be located on corner lots.
 - (2) Approved plans that utilize a "side-entry" plan must site similar plans which are immediately adjacent, in a mirrored (flipped) configuration.
- (e) At minimum, three elevations per plan that reflect distinct architectural and historically accurate style. Contemporary and modern styles must display a strong design intent. Elements that characterize a specific historical style (elevation) will be strictly enforced.
- (f) New single-family residential plans shall include multiple roof truss configurations for each plan with each elevation to include: gable, hip, clipped-hip, shed, flat, or a combination thereof, etc.
- (g) Provide multiple roofing material styles such as flat tile, barrel (S) tile, etc.
- (h) Four-sided architecture: door and window-casing treatments and building massing elements located on front elevations must be continued to all subsequent elevations for all plans.
- (i) Horizontal bands, wainscots, columns and/or pilasters, or any other architectural element and

decorative materials applied to any front building elevation must wrap around (corners) onto adjoining walls of the structure to a visually appropriate terminating point (all horizontal elements will be assessed at the time of submittal and type of architecture as to what the recommended termination point must be).

- (j) Project shall include rear covered patios that integrate architecturally with the roof of the home.
- (k) One elevation per plan must include a front porch or covered entry-way as standard. Required front porches and covered entry-ways must be at minimum six feet × ten feet clear of obstructions.
- (l) Landscaping requirements are included in article X.
- (m) Embellished garage doors on all elevations subsequent to the primary elevation (primary elevation = elevation A). Embellishment must relate to the elevations architectural theme.
- (n) Incorporate multiple and architecturally distinct roof variations for each rear elevation per each plan submitted.
- (o) Fence return walls shall incorporate standard decorative materials to match the home: i.e. decorative columns, stucco, scored CMU, split-face CMU, brick, stone veneer, etc.
- (p) Builder shall provide at least two energy saving features for each home product. Shall include such items as solar products, low e windows, etc.

(Ord. No. 09-12, § 2(Exh. A), 5-14-09)

Sec. 122-132. Model home complex.

- (a) As part of all model home complexes submitted per article VIII, homebuilders must comply with the following conditions:
 - (1) Guidelines:
 - a. Seventy-five percent of plans constructed in a model home complex must be "non-garage dominant".
 - b. If any approved product line consists of one plan that provides a significantly recessed garage, that plan must be modeled.
 - c. If any approved product line consists of two or more plans that provide a significantly recessed garage, the number of those plans modeled will be determined by the city manager or designee.
 - (2) Site standards:
 - a. Landscapes for model home complexes shall be in compliance with article X of [chapter 122](#)
- (b) A "zero-step" entrance shall be required for all model homes within the City of Surprise.
 - (1) "Zero-step" entry shall have a floor or landing on each side of the primary entrance door. Such floor or landing shall be at the same elevation on each side of the door. Landings shall be level, except for exterior landings, which are permitted to have a slope not to exceed 0.25 units vertical in 12 units horizontal (two percent). Thresholds for such doors shall not exceed one-half-inch in height, and thresholds with changes in level greater than one-quarter-inch shall be beveled with a slope not greater than one unit vertical in units horizontal.
 - (2) The city manager or designee may waive the requirement "zero-step" entry if it is found that it would prove to be cost prohibitive. Such cases however, the builder must still provide a zero-step entry into at least one model home and an unobstructed pathway to all models.
 - (3) Model signage. All new model homes and sales areas shall include signage that read - "Ask Us About Accessibility Options."

- (4) Education. An educational DVD shall be available to sales staff and potential homebuyers regarding the benefits of visitability.

(Ord. No. 09-12, § 2(Exh. A), 5-14-09)

City of Visalia Agenda Item Transmittal

Meeting Date: October 22, 2001

Agenda Item Number (Assigned by City Clerk):

Agenda Item Wording: Presentation and discussion of the voluntary
"Visitable Home Program" and standards.

Deadline for Action: None

Submitting Department: Community Development

Contact Name and Phone Number:
Dennis Lehman 713-4495

For action by:

☒ City Council
☐ Redev. Agency Bd.
☐ Cap. Impr. Corp.
☐ VPFA

For placement on which
Agenda:

☒ Work Session
☐ Closed Session
☐ Regular Session
☐ Consent Calendar
☐ Regular Item
☐ Public Hearing

Est. Time
(Min.): 10

Department Recommendation and Summary:

In keeping with the city of Visalia's long standing policy of assisting the disabled members of its community, and continuing the city's commitment to be in the forefront of proactive change to enhance the quality of life for all its residents, the following proposal is offered for consideration.

The mission of this resolution is to provide new homeowners in Visalia with homes that will provide disabled visitors access to the home and the use of a ground level bathroom.

The following goals, set in force by City Council resolution, and put into action by participation and cooperation of the Building Industry Association, the City of Visalia and the Center for Independent Living will be a change that will affect the lives of the disabled and their families for generations to come.

The "Voluntary Visit-Able Home Program" will be a written set of guidelines that will be utilized by the City of Visalia's plan checkers to certify a home built in Visalia as "Visit-Able" and thereby qualify it as "Visit-Able" and thereby qualify it to use the "Certified Visit-Able" logo (see attachment). That logo can be a registered trademark. The builder then may use that trademark in all advertising that relates to homes throughout a project where plans have been certified as "Visitable" by the building inspection division. There

shall be no additional assessed fee for modifications in the field to comply with the new standard and qualify for "Visit-Able" status.

Standards

1. One (1) Zero step entrance at any entrance (front door, garage, patio, etc.)
A maximum of 1" threshold at this entrance.
2. 32" Clearance to a bathroom except where a tub-shower limitation due to 5' width are encountered. In such cases a standard 30" door in the bathroom will comply.
3. Placement of backing 34"-38" high with 2" material behind water closet

These standards were developed with the Building Industry Association, the Citizens for Independent Living and the City of Visalia Building Division. They represent a consensus between these groups and will deliver a product that will serve the entire community of Visalia for years to come.

A resolution will be presented to City Council on November 5, 2001.

Prior Council/Board Actions: February 26, 2001 presentation to City Council.

Committee/Commission Review and Actions: Construction Review Committee reviewed and motioned to move forward.
Citizens for Independent Living reviewed and motioned to move forward.

Alternatives:

Attachments: Proposed logo
Graphics (draft)

City Manager Recommendation:

A handwritten signature in black ink, appearing to be 'JMS' or similar, located at the bottom left of the page.

ZONING BY-LAWS



WESTPORT, MASSACHUSETTS

Revised January 11, 2012

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ARTICLE XIV - ZONING BY-LAWS

ARTICLE 1

PURPOSE AND DEFINITIONS (Formerly Section I)

1.0 PURPOSE

The purpose of this By-Law is declared to be the promotion of the public health, safety, convenience, and welfare by:

- A.** Encouraging the most appropriate use of land;
- B.** Preventing overcrowding of land;
- C.** Conserving the value of land and buildings, including the conserving of natural resources and the preventing of blight and polluting the environment;
- D.** Lessening the congestion of traffic;
- E.** Preventing undue concentration of population;
- F.** Providing for adequate light and air;
- G.** Reducing hazards from fire and other dangers;
- H.** Assisting in the economical provisions of transportation, water, sewerage, schools, parks, and other public facilities;
- I.** Encouraging housing for persons of all income levels;
- J.** Preserving and increasing the amenities of the Town;
- K.** Giving effect to the policies and recommended proposals of the Master Plan of Westport.

The use, construction, repair, alteration, extension, and height of buildings and structures and the use, or alteration or extension of use of premises in the Town are hereby regulated as hereinafter provided.

(1963 ATM, Article 38; 1978 ATM, Article 21)

(Editorial Note): Article 21 of 1978 completely rewrote this section. (For original, see Appendix)

1.1

DEFINITIONS (Formerly Section II)

In this By-Law, the following terms, unless a contrary meaning is required by the context or is specifically prescribed, shall have the following meanings: Words used in the present tense include the future, and the plural includes the singular; the word "lot" includes the word "plot"; the word "building" includes the word "structure"; the word "shall" is intended to be mandatory; "occupied" or "used" shall be considered as though followed by the words "or intended, arranged or designed to be used or occupied." The word "person" includes a corporation as well as an individual.

Accessory Apartment - An independent dwelling unit of five hundred (500) to nine hundred (900) square feet contained within a single-family residence. The unit shall have a separate exterior entrance, a kitchen/living room, a bathroom and a maximum of one bedroom. Either unit shall be occupied by the owner.

Accessory Use - A use or building customarily incidental and subordinate to the principal use or building and located on the same lot with such principal use or building. In buildings restricted to residence use, the office of a professional man, customary family occupations and workshops not conducted for compensation, shall be deemed accessory uses.

Adult Entertainment Establishment - The following uses, as defined in G.L. c.40A, §9A, shall be known as Adult Entertainment Establishments: Adult Bookstore, Adult Motion Picture Theatre, Adult Paraphernalia Store, Establishment Which Displays Live Nudity For Its Patrons, and Adult Video Store.

For purposes of this By-Law, the term "substantial or significant portion of stock in trade" shall be deemed to exist under any of the following circumstances:

- a When the cost (either wholesale or retail) of the portion of the stock in trade on hand characterized or distinguished by depicting or concerning sexual conduct or sexual excitement, as defined in G. L. c. 272, §31, comprises more than ten percent (10%) of the total stock in trade on hand; or
- b When monthly revenues, including rentals, from

such stock in trade exceeds more than ten percent (10%) of the monthly revenues from all stock in trade; or

- c. When an area of more than ten percent (10%) of the floor area open to or observable by customers is wholly or partially used for the display or storage of such stock in trade; or
- d. When a business with any such stock in trade fails, upon request of the Inspector of Buildings to produce accurate information to determine whether the thresholds set forth in paragraphs (a), (b) or (c) have been exceeded, there shall be a presumption that such business comprises an Adult Entertainment Establishment.

Adult Theater - (2008 ATM, Article 45 deleted this section)

Affordable Housing Restriction - A deed restriction approved by the Board and Town Counsel that designates a Dwelling Unit as affordable housing pursuant to the statutory requirements of the General Laws of the Commonwealth of Massachusetts, regulations and guidelines adopted pursuant thereto by the Dept. of Housing and Community Development, as well as any applicable requirements of the Westport Zoning By-Laws and regulations promulgated thereunder and that renders the unit eligible for inclusion in the SHI maintained by DHCD or any successor agency. (2009 ATM, Article 28)

Affordable Unit - A housing unit that by deed restriction is and shall remain permanently affordable by being available, upon sale or resale, for purchase or rent to purchasers or renters so that the unit shall count towards the Town's Subsidized Housing Inventory as maintained by the Department of Housing and Community Development.

Agriculture - The normal maintenance or improvement of land in agricultural or aquaculture use as defined by the Massachusetts Wetlands Protection Act and its implementing regulations.

Alter - Activities such as demolition, construction, clearing, excavation, grading, filling, and reconstruction that result in a change in the natural cover or topography.

Applicant - The person or persons, including a corporation or other legal entity, applying for a special permit hereunder. The Applicant must own, or be the beneficial owner of, all

the land included in the proposed site, or have authority from the owner(s) to act for him/her/ it/them or hold an option or contract duly executed by the owner(s) and the Applicant giving the latter the right to acquire the land to be included in the site. A property owner or agent of a property owner who has filed an application.

Area Median Income - Median income as reported by the most recent information from the United States Department of Housing and Urban Development and/or DHCD for the Providence-Fall River, RI-MA HUD Metro FMR Area.

Area Of Special Flood Hazard - Is the land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated on a FIRM as Zone A, AO, AH, A1-30, AE, A99, V1-30, VE, or V.

Assisted Living Facility (ALF) - A facility as defined in 651 CMR 12.02.

Base Flood - The flood having a one percent chance of being equaled or exceeded in any given year.

Bed & Breakfast (homestay) - A private owner occupied residence with one to three guestrooms. The bed and breakfast homestay is subordinate and incidental to the main residential use of the building. The home is to be the primary and legal residence of the owner, is a single-family residence, and the owner shall be responsible for the operation of the property and shall be a resident of the property when the Bed and Breakfast establishment is in operation. Individual guests are prohibited from staying at a particular bed and breakfast establishment for more than fourteen (14) days in any 30-day period.

Biofiltration, Bioretention and/or Rain Garden - A stormwater treatment practice that uses soils, plants, and microbes to treat storm water before it is infiltrated and/or discharged. Bioretention cells are shallow depressions filled with sandy soil topped with a thick layer of mulch and planted with dense native vegetation.

Building - An independent structure having a roof supported by columns or walls, resting on its own foundations and designed for the shelter, housing or enclosure of persons, animals, chattel or property of any kind.

Coastal High Hazard Area - An area of special flood hazard extending from offshore to the inland limit of a primary

frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. The area is designated on a FIRM as Zone V, V1-30, VE.

Detention - The temporary storage of stormwater runoff in a stormwater management facility with the goals of controlling peak discharge rates and providing gravity settling of pollutants.

Detention Facility - A detention basin or alternative structure designed for the purpose of temporary storage of stream flow or surface runoff and gradual release of stored water at controlled rates.

Developer - A person who undertakes land disturbance activities.

Development - Any manmade change to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

Disturbance Of Land - Any action that causes a change in the position, location, or arrangement of soil, sand, rock, gravel or similar earth material. See Land Disturbance Activity.

Dwelling - A building designed or used as the living quarters for one or more families as the principal use.

Dwelling, Multi-Family - A building containing more than two dwelling units, with each unit containing its own sleeping, cooking and sanitary facilities.

Dwelling, One-Family - A detached building containing one dwelling unit only and having two side yards.

Dwelling, Two-Family - A detached building containing two (2) dwelling units, with each unit containing its own sleeping, cooking and sanitary facilities.

Easement - A legal right granted by a landowner to a third party grantee allowing the use of private land for stormwater management purposes.

Eligible Household - A household whose total income does not exceed 80% of the area median income, adjusted for household size, as reported by the most recent information from the United States Department of Housing and Urban Development

and/or DHCD.

Family - One or more persons occupying a dwelling unit and living, sleeping, cooking and eating on the same premises as a single housekeeping unit.

Federal Emergency Management Agency (Fema) - Administers the National Flood Insurance Program. FEMA provides a nationwide flood hazard area mapping study program for communities as well as regulatory standards for development in the flood hazard areas.

First Flush - Pollutant concentrations, including suspended sediments, carried by storm water in the beginning of a storm. These concentrations are typically higher than at the middle or end of the storm. To determine "first flush", see Water Quality Volume definition.

Flood Boundary And Floodway Map - An official map of a community issued by FEMA that depicts, based on detailed analyses, the boundaries of the 100-year and 500 year floods and the 100-year floodway. (For maps done in 1987 and later, the floodway designation is included on the FIRM.)

Flood Hazard Boundary Map (Fhbm) - An official map of a community issued by FEMA where the boundaries of the flood and related erosion areas having special hazards have been designated as Zone A or E.

Flood Insurance Rate Map (Firm) - An official map of a community on which FEMA has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

Flood Insurance Study - An examination, evaluation, and determination of flood hazards, and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of flood-related erosion hazards.

Floodway - The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation.

Frontage - That portion of a lot fronting upon a street or way, said frontage to be measured continuously along one street line between its side lot lines and their intersection with the street line.

Front Yard - A "front yard" is a required open unoccupied space, within and extending the full width of the lot, between the street line and the front of a building.

Green Roof - The roof of a building that is partially or completely covered with vegetation and soil, or a growing medium, planted over a waterproofing membrane. A green roof is used to mitigate the effects of urbanization on water quality by filtering, absorbing or detaining rainfall.

Heat Island Effect - Built up areas that are hotter than nearby rural areas. Common strategies for reducing the heat island effect are: 1) increasing tree and vegetative cover, 2) installing green roofs 3) installing cool, mainly reflective, roofs, and 4) using cool pavements.

Hot Spot - A stormwater hotspot is an area where land use or activities generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater. Infiltration basins should never receive runoff from stormwater hotspots, unless the stormwater has already been fully treated by another stormwater treatment practice. This is due to potential groundwater contamination.

Impervious Cover - Those surfaces that cannot effectively infiltrate rainfall (e.g., building rooftops, pavement, sidewalks, driveways, etc.).

Independent Living Facility (ILF) - A facility reserved by deed for occupancy by persons over the age of fifty-five who are able to care for themselves, but with some common facilities as described herein.

Infiltration - The flow of water from the ground surface down into the soil.

Infiltration Facility - Any structure or device designed to infiltrate retained water to the ground. These facilities may be above grade or below grade.

Land Disturbance Activity - Any activity that changes the volume or peak flow discharge rate of rainfall runoff from the land surface, including: grading, digging, culling, scraping, excavating of soil, placement of fill materials, paving construction, substantial removal of vegetation, any activity which bares soil or rock or involves the diversion or piping of any natural or man-made watercourse.

Landowner/Owner - The legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person holding propriety rights in the land.

Land Uses With Higher Potential Pollutant Loads ("LUHPPL") - Defined in 310 CMR 10.04 and 314 CMR 9.02 to include the following: Land uses identified in 310 CMR 22.208(2), 310 CMR 22.20C(2)(a-k) and (m), 310 CMR 22.21 (2)(a)(1 -8) and 310 CMR 22.21 (2)(b)(1 -6), areas within a site that are the location of activities that are subject to an individual National Pollutant Discharge Elimination System ("NPDES") permit or the NPDES Multi-Sector General Permit; auto fueling facilities (gas stations); exterior fleet storage areas; exterior vehicle service and equipment cleaning areas; marinas and boatyards; parking lots with high-intensity-use; confined disposal facilities and disposal sites.

Lot - An area of land in one ownership with definite boundaries, used, or available for use, as the site of one or more buildings.

Lot Area - The horizontal area of a lot exclusive of any area in a street or recorded way open to public use.

Low Impact Development (LID) - A comprehensive land planning and engineering design strategy that emphasizes conservation and use of existing natural site features integrated with distributed small-scale storm water controls to closely mimic natural hydrological patterns.

Low Impact Development (LID) Management Plan - A plan required to be submitted as part of this bylaw.

Manufactured Home - A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For flood plain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes, the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.

Market Rate Dwelling Unit - A Dwelling Unit available for sale or rent within a project or development at an unsubsidized price commensurate with the fair market value of said dwelling unit

Median Income - The area median income, adjusted by household size, reported by the most recent information from the U.S. Department of Housing and Urban Development and/or DHCD.

Municipal Storm Drain System or Municipal Separate Storm Sewer System (MS4) - The system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town of Westport.

New Construction - Means, for flood plain management purposes, structures for which the "start of construction" commenced on or after the effective date of a flood plain management regulation adopted by a community. For the purpose of determining insurance rates, new construction means structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later.

Non-Conforming Use - A building or land lawfully occupied by a use that does not conform to the regulations of the district in which it is situated.

Nonpoint (NPS) Source Pollution - Pollution from any source other than from any discernible, confined, and discrete conduit or waterway, and shall include, but not be limited to, pollutants from agricultural, mining, construction, subsurface disposal and urban runoff sources.

One-Hundred-Year Flood - See Base Flood

Open Space Residential Development(OSRD) - A residential development of one-family and two-family dwellings in which the buildings and accessory uses are grouped together with reduced lot sizes into one or more areas. The land not included in the building lots shall be permanently protected as open space. The design of the development shall be in accordance with the four-step design process described in Article 18 of these By-Laws.

Permeable, Pervious or Porous Pavement - is a paved surface with a higher than normal percentage of air voids to allow water to pass through it and infiltrate into the subsoil. Permeable paving techniques include porous asphalt, pervious concrete, paving stones, and manufactured "grass pavers" made

of concrete or plastic.

Permit Granting Authority - Shall mean the Board of Appeals.

Rear Yard - A "rear yard" is a required open unoccupied space, the full width of the lot lying between the extreme rear wall of the building and the rear line of the lot or the line of the public street or private way in case the lot borders on such street or way.

Recharge - The replenishment of water to aquifers.

Redevelopment - Any construction, alteration, or improvement exceeding one acre in area where existing land use is high-density commercial, industrial, institutional or multi-family residential.

Regulatory Floodway - See Floodway

Resource Area - Any area protected under the Massachusetts Wetlands Protection Act, Massachusetts Rivers Act, or Westport Conservation Commission regulations.

Sexually-Orientated Business - (2008 ATM, Article 45 deleted this section)

Side Yard - A "side yard" is required open unoccupied space, within the lot within a side lot line, not a street line, and the parts of the building nearest to such lot line. Such a yard shall extend for its required width from the street line or its equivalent to the rear or its equivalent to another street.

Sign - Any structure or part thereof attached thereto or painted or represented thereon, which shall display or include any letter, word, model, banner, flag, pennant, insignia, device or representation used as, or which is in the nature of an announcement, direction or advertisement. The word sign does not include the flag, pennant or insignia of any nation, state or other political unit, or of any educational, charitable, philanthropic, civic, professional, religious or like campaign, drive, movement or event.

Sign - Area Of - The area of a free-standing sign includes all lettering, wording and accompanying designs and symbols, together with the background, whether open or enclosed, on which they are displayed. The supporting framework, open or enclosed, may be part of the design, but for the purposes of this By-Law shall not be considered part of the sign area

unless used for lettering, wording or symbols. When the sign consists of individual letters or symbols attached to or painted on a surface, building wall or window, the area shall be considered to be that of the smallest rectangular or other regular shape which encompasses all of the letters and symbols.

Single Family Dwelling Unit (Noquochoke Overlay District Only) - A detached building containing not more than one dwelling unit.

Social Sustainability - Design of the physical environment so as to provide, or easily to allow future adaptation to provide, full accessibility to persons with a range of physical abilities as these may change throughout their lifetime.

Soil Mottling - Redoximorphic features.

Special Flood Hazard Area - An area having special flood and/or flood-related erosion hazards, and shown on an FHBM or FIRM as Zone A, AO, A1-30, AE, A99, AH, V, V1-30, VE.

Special Permit Granting Authority - Shall include the Board of Selectmen, Board of Appeals, Planning Board, as designated by this By-Law for the issuance of special permits.

Start of Construction - The first land-disturbing activity associated with a development, including but not limited to land preparation such as clearing, grading and filling; installation of streets and walkways; excavation for basements, footings, piers, or foundations; erection of temporary forms; and installation of accessory buildings such as garages.

Stormdrain System - The conveyance system, including catchbasins, manholes, pipes and drainage ditches to transport stormwater runoff [usually to a storm water management practice(s)].

Stormwater Management Plan - A plan required to be submitted as part of this bylaw.

Stormwater Management Practice(s) - Techniques used to control the impacts (flooding, increased volume, and pollution) of stormwater runoff.

Stormwater Management System - All components associated with the management of stormwater runoff including the Stormdrain

System and the Stormwater Management Practice(s).

Stormwater Pollution Prevention Plan (SWPPP): A plan required under the Environmental Protection Agency's (EPA) NPDES Construction General Permit for projects that disturb one acre or more of land (See DEP Handbook Chapter I, Volume I).

Stormwater Runoff - Water resulting from precipitation that flows overland.

Stormwater Treatment Practices - Measures, either structural or nonstructural, that are determined to be the most effective, practical means of preventing or reducing point source or nonpoint source pollution inputs to stormwater runoff and water bodies

Street - Any duly-accepted public way, any way not less than 40 feet wide shown on plan duly recorded after April 10, 1920, or any other way equivalent to a public way for the purposes of subdivision control as specified in General Laws, Chapter 41, Section 81L.

Structure - Means, for flood plain management purposes, a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home. STRUCTURE, for insurance coverage purposes, means a walled and roofed building, other than a gas or liquid storage tank that is principally above ground and affixed to a permanent site, as well as a manufactured home on foundation. For the latter purpose, the term includes a building while in the course of construction, alteration, or repair, but does not include building materials or supplies intended for use in such construction, alteration, or repair, unless such materials or supplies are within an enclosed building on the premises.

Upland - Land other than land classified under the Wetlands Protection Act as freshwater wetland, beach, flat marsh or swamp and land under any water bodies such as ocean, creek, river, stream, brook, pond or lake.

Visitability - Dwelling units are deemed Visitable if they meet the following three criteria: zero step entrance, all doorways that are 32 inches clear, and a toilet on the first floor.

Watercourse - Any body of water, including, but not limited to, lakes, ponds, rivers and streams.

Waterway - A channel, either natural or man-made, that directs surface runoff to a watercourse or to the public storm drain.

Water Quality Volume - the volume generated by the first 1.25 inches of stormwater runoff. This first inch of runoff carries the majority of accumulated pollutants from impervious surfaces. The first flush volume in cubic feet (VWQ) is determined by the following formula:

$VWQ = (1.25/12 \text{ inches}) (RwQv) (\text{Site Area in square feet});$
Where: $RwQv = 0.05 + 0.009(I);$
I = the % impervious area.

Way - Same as Street.

Zero Step entrance - An entrance that has no steps, and is at grade level with the exterior grounds. The zero step entrance can be at any doorway; front, side, rear.

Zone A - The 100-year flood plain area where the base flood elevation (BFE) has not been determined. To determine the BFE, use the best available federal, state, local, or other data.

Zone A1-30 and Zone Ae (For New And Revised Maps) - The 100-year flood plain where the base flood elevation has been determined.

ZONE AH and ZONE AO - The 100-year flood plain with flood depths of 1 to 3 feet, where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Zone A99 - Areas to be protected from the 100-year flood by federal flood protection system under construction. Base flood elevations have not been determined.

Zone V - A special flood hazard area along a coast subject to inundation by the 100-year flood with the additional hazards associated with storm waves. Base flood elevations have not been determined.

Zone V1-30 and Zone VE (For New and Revised Maps) - A special flood hazard area along a coast subject to inundation by the 100-year flood with additional hazards due to velocity (wave action). Base flood elevations have been determined.

Zoning By-Laws - The Zoning By-Laws of the Town of Westport as amended.

(1963 ATM, Article 38; 1964 ATM, Article 54; 1973 STM, Article 19; 1978 ATM, Article 21; 1982 STM, Article 19; 1990 ATM, Article 52; 1995 ATM, Article 43; 1998 ATM, Article 64; 2005 ATM, Article 4; 2007 ATM, Article 20; 2008 ATM, Article 45, 2009 ATM, Articles 28 & 31; 2010 ATM, Article 36; 2011 ATM, Article 37)

(Editorial Note): Article 54 of the 1964 ATM added the definitions of "Sign" and "Sign, Area of" to the original. Article 19 of the 1973 Special Town Meeting replaced entirely the old definitions of "Lot" and "Street Line" (see Appendix for prior ones) and added "Way," "Permit Granting Authority" and "Special Permit Granting Authority" were added by 1978 ATM, Article 21. "Front yard," "Side Yard," and "Rear Yard," were added by 1982 STM, Article 19. "Accessory Apartment" was added by 1990 ATM, Article 52). Article 43 of the 1995 ATM added the definitions of "Lot Area" and "Upland." The 1998 ATM, Article 64 added the definitions of "Adult Live Entertainment Establishment," "Adult Theater," and "Sexually-Oriented Business." The 2005 ATM, Article 4 added "Affordable Unit," "applicant," "Assisted Living Facility (ALF)," "Eligible Household," "Independent Living Facility (ILF)," and "Median Income." Article 20 of the 2007 ATM added the definition of "Open Space Residential Development (OSRD)". Article 45 of the 2008 ATM revised the definition of "Adult Entertainment Establishment". Article 28 of the 2009 ATM added the definitions of "Affordable Housing Restriction", "Dwelling, Two-Family", "Dwelling, Multi-Family", "Market Rate Dwelling Unit", "Single Family Dwelling Unit (Noquochoke Overlay District Only)", "Social Sustainability", "Visitability", "Zero Step Entrance", and "Zoning By-Laws". Article 31 of the 2009 ATM added the definitions of "Area of Special Flood Hazard", "Base Flood", "Coastal High Hazard Area", "Development", "Federal Emergency Management Agency", "Flood Boundary And Floodway Map", "Flood Hazard Boundary Map", "Flood Insurance Rate Map", "Flood Insurance Study", "Floodway", "Manufactured Home", "New Construction", "One Hundred-Year Flood", "Regulatory Floodway", "special Flood Hazard Area", "Structure", "Zone A", "Zone A1-30 And Zone Ae", "Zone A99", "Zone V", "Zone V1-30 And Zone VE"; Article 36 of the 2010 ATM revised the definition of "Affordable Unit." and added the definition of "Area Median Income". Article 37 of the 2011 ATM added the following definitions "Agriculture", "Alter", "Applicant", "Biofiltration, Bioretention and/or Rain Garden", "Building", "Detention", "Detention Facility", "Developer", "Disturbance of Land", "Easement", "First Flush", "Green Roof", "Heat Island Effect", "Hot Spot", "Impervious Cover", "Infiltration", "Infiltration Facility", "Land Disturbance Activity", "Landowner/Owner", "Land Uses With Higher Potential Pollutant Loads (LUHPPL)", "Low Impact Development (LID)", "Low Impact Development (LID) Management Plan", "Municipal Storm drain System or Municipal Separate Storm Sewer System (MS4)", "Nonpoint Source Pollution (NPS)",

"Permeable, Pervious or Porous Pavement", "Recharge", "Redevelopment", "Resource Area", "Soil Mottling", "Start of Construction", "Stormdrain System", "Stormwater Management Plan", "Stormwater Management Practice(s)", "Stormwater Management System", "Stormwater Pollution Prevention Plan (SWPPP)", "Stormwater Runoff", "Stormwater Treatment Practices", "Watercourse", "Waterway", and "Water Quality Volume".

ARTICLE 2

ADMINISTRATION (Formerly Section VII)

2.0 ENFORCEMENT

- 2.0.1** If the Inspector of Buildings shall be informed, or have reason to believe that any provision of this By-Law has been, is being, or may be violated, he or his agent shall investigate the facts and inspect the property in question.
- 2.0.2** If he shall find such violation he shall give notice thereof in writing to the owner or to his duly authorized agent and to the occupant of the premises, and order that any use of any building or premises contrary to the provision of this By-Law shall immediately cease.
- 2.0.3** If the Inspector of Buildings is requested in writing to enforce the Zoning By-Law against any person allegedly in violation of the same and the Inspector of Buildings declined to act, he shall notify, in writing, the party requesting such enforcement of any action or refusal to act, and the reason therefore, within fourteen (14) days of receipt of such request.
- 2.0.4** Penalty for non-compliance with any lawful order of the Inspector of Buildings pertaining to the Zoning By-Laws shall be punishable by a fine of \$300.00, in accordance with the requirements of G.L. c.40, ss21D; provided that each day such violation continues shall constitute a separate offense.

(1963 ATM, Article 38; 1978 ATM, Article 21; 1986 ATM, Article 55; 2010 ATM, Article 34)

(Editorial Note): The 1978 article struck the former provision in its entirety and replaced it with the above section. See Appendix. The

1986 article deleted the words "no more than" prior to "twenty (\$20.00 dollars)".

2.1 AMENDMENT (Formerly Section VII C)

This By-Law may be amended from time to time at an Annual or Special Town Meeting in accordance with the provisions of M.G.L. Chapter 40A, Section 5.

(1963 ATM, Article 38; 1978 ATM, Article 21)

2.2 VALIDITY (Formerly Section VII D)

The invalidity of any section or provision of this By-Law shall not invalidate any other section or provision thereof.

(1963 ATM, Article 38)

2.3 EFFECTIVE DATE (Formerly Section VII E)

These By-Laws and any amendments thereto shall become effective upon vote of the Town Meeting, subject to approval by the Attorney General of the Commonwealth of Massachusetts.

(1963 ATM, Article 38)

2.4 BOARD OF APPEALS

2.4.0 There is hereby established a Board of Appeals of five (5) members and two (2) associate members to be appointed by the Selectmen as provided in M.G.L. Chapter 40A, Section 12 for terms of such length and so arranged that the terms of one (1) member shall expire each year.

2.4.1 The Board of Appeals shall elect annually a chairperson, a vice-chairperson, and a clerk from its own number and may, subject to appropriation, employ experts and clerical and other assistants. The Board shall adopt rules for the conduct of its business and for the purpose of M.G.L. Chapter 40A and shall file a copy of said rules with the Town Clerk.

2.4.2 The Board of Appeals for the purpose of this By-Law and M.G.L. Chapter 40A, shall be designated as the "Permit Granting Authority" and the "Special Permit Granting Authority." The Board shall act on all matters within its jurisdiction under this By-Law in the manner prescribed in M.G.L. Chapter

40A.

The Board shall have the following powers:

2.4.2.0 Appeals

To hear and decide appeals by any person aggrieved by reason of his inability to obtain a permit or enforcement action from any administrative officer under the provisions of M.G.L. Chapter 40A by the regional planning agency in whose area the Town is situated, or by any persons including an officer or Board of the Town, or of an abutting City or Town aggrieved by an order or decision of the Building Inspector or other administrative official, in violation of any provision of Chapter 40A or any ordinance or By-Law adopted thereunder, including this Zoning By-Law.

2.4.2.1 Permits and Special Permits

To hear and decide on applications for permits and/or special permits as provided by sections of this By-Law when it shall be found that the use involved is in harmony with the general purpose and intent of the By-Law, subject to appropriate conditions safeguards, and limitations on time and use.

2.4.2.2 Variances

To hear and decide petitions for variances and to grant upon appeal or petition with respect to particular land or structures a variance from the terms of the Zoning By-Laws, including a use or activity not otherwise permitted in the district where the land or structure is located, where the Board specifically finds that owing to circumstances relating to soil conditions, shape, or topography of such land or structures, but not affecting generally the zoning district in which it is located, a literal enforcement of the By-Law would involve substantial hardship, financial

or otherwise, to the petitioner or appellant, and that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent and purpose of the By-Law. (Formerly Section VII F)

The Board of Appeals may grant upon appeal or upon petition with respect to particular land or structures a variance from the terms of this By-Law where the Board of Appeals makes the required findings and follows the requirement of M.G.L Chapter 40A, Sections 10, 11, 13, 15, and 16 and the provisions of the foregoing section entitled **SPECIAL PERMITS**. (Formerly Section VII B)

- 2.4.2.3** In exercising the above powers the Board of Appeals may, in conformity with the provisions of M.G.L. Chapter 40A, make orders or decisions, reverse or affirm in whole or in part, or modify any order or decision, and to that end shall have all powers of the officer from whom the appeal is taken and may issue or direct the issuance of a permit.

(1963 ATM, Article 38; 1975 ATM, Article 36; 1978 ATM, Article 21)

(Editorial Note): The 1978 article rewrote the entire section. See Appendix for original - Formerly Section VII.

2.5 SPECIAL PERMITS (Formerly Section VI E)

- 2.5.0** A special permit shall be required for all uses and for all exceptions to dimensional regulations, which are designed in this By-Law as requiring a special permit before the Inspector of Buildings may issue a building or occupancy permit.
- 2.5.1** Each application for a special permit shall be on forms supplied and shall be filed in triplicate with the Town Clerk who shall transmit copies thereof to the Planning Board and the Board of Appeals within three (3) days of receipt of them (Saturdays, Sundays, and holidays excluded).

- 2.5.2** The Planning Board may at any time up to the date of the public hearing held as provided in Chapter 40A, Section 9, transmit to the Board of Appeals a report accompanied by such materials, maps, or plans as will aid the Board of Appeals in judging the application and in determining special conditions and safeguards.
- 2.5.3** The Board of Appeals shall not render any decision on an application for a special permit before one of the following has taken place:
- A.** The public hearing has been held without notification from the Planning Board to the Board of Appeals that a report will be submitted by the Planning Board.
 - B.** Said report has been received as of the date of the public hearing.
- 2.5.4** The Board of Appeals shall, at the expense of the applicant, give public notice of the appeal in the manner provided in Chapter 40A, Section 9, which require among other things, publication of a notice of a hearing not less than fourteen (14) days prior to the date of the hearing in a newspaper of general circulation in Westport, and by posting such notices in a conspicuous place in the Town for a period of not less than fourteen (14) days before the day of such hearing, and by mail to all interested parties, according to Chapter 40A, Section 9. Public hearings shall be held within sixty-five (65) days after the filing of an application.
- 2.5.5** The decision of the Board of Appeals must be made within ninety (90) days following a public hearing. Failure to take final action upon an application for a special permit within said ninety (90) days shall be deemed to be a grant of the permit applied for. The Board shall cause to be made a detailed record of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and setting forth clearly the reason or reasons for its decisions, and of its other official actions, copies of all which shall be filed within fourteen (14) days in the office of the Town Clerk and in the office of the

Planning Board and shall be mailed forthwith to parties in interest, as designated in Section Eleven (11) of Chapter 40A, and to each person present at the hearing who request that notice be sent to him and states the address to which notice is to be sent.

2.5.6 No variance or special permit, any extension, modification or renewal thereof, shall take effect until a copy of the decision bearing the certificate of the Town Clerk that twenty (20) days have elapsed and no appeal has been filed, that it has been dismissed or denied, is recorded in the registry of deeds and indexed in the grantor index under the name of the owner of the record or is recorded and noted on the owner's certificate of title.

2.5.7 No appeal for a variance and no application for a special permit which has been unfavorably acted on by the Board of Appeals shall be reconsidered on its merits, within two (2) years of such action, unless the Board of Appeals finds, by unanimous vote specific and material changes in the conditions upon which previous unfavorable action was based, and describes such change in the records of its proceedings, and unless all but one of the members of the Planning Board consents thereto and after notice is given to parties of interest of the time and place of proceedings when the question of such consent will be considered.

2.5.8 The period within which final action shall be taken may be extended for a definite period by mutual consent of the Board of Appeals and the applicant. In the event the Board determines that the site plan and evidence presented to it at the public hearing are inadequate to permit the Board to make a finding or determination, or to permit the Planning Board the proper amount of time to make its report, the Board may, at its discretion, instead of denying the application, adjourn the hearing to a later date to permit the applicant to submit a revised site plan and further evidence, provided, however that such adjournment shall not extend the ninety (90) day period within which final action shall be taken by the Board unless said period is extended to a day certain by mutual consent.

- 2.5.9** A special permit granted under this section shall lapse within nine (9) months from the grant thereof if a permit for construction has not been received, except for good cause as determined by the permit granting authority, or, in the case of a permit for construction, if the construction has not begun by such date and continued except for good cause as determined by the Board of Appeals.

(1978 ATM, Article 21)

- 2.6** The Planning Board is hereby designated as the Special Permit Granting Authority (SPGA) for Assisted and Independent Living Facilities (Article 11), for Inclusionary Housing (Article 13), for Drive-Through Facilities (Article 14), and for the Noquochoke Overlay District (Article 19). The Planning Board shall act on all special permit applications as provided by the Rules and Regulations of the Planning Board as Special Permit Granting Authority to be adopted hereunder.

(2004 ATM, Article 19; 2005 ATM, Article 30; 2009 ATM, Article 28)

- 2.7** (Article 28, 2009 ATM deleted this section)

ARTICLE 3

ESTABLISHMENT OF DISTRICTS (Formerly Section III)

3.0 TYPES OF DISTRICTS

For the purposes of this By-Law, the Town of Westport is hereby divided into the following types of use districts:

- A.** Business
- B.** Residence/Agriculture
- C.** Unrestricted
- D.** Flood Plain
- E.** Aquifer Protection
- F.** Telecommunication Facilities Overlay
- G.** Adult Entertainment Overlay District
- H.** Noquochoke Overlay District

(1963 ATM, Article 38; 1975 STM, Article 11; 1998 ATM, Articles 63 & 65; 2008 ATM, Article 45; 2009 ATM, Article 28)

(Editorial Note): Article 11 of 1975 merely added "Flood Plain". Article 45 of 1990 ATM changed "Residence" District to "Residence/Agriculture" District.

3.1 LOCATION OF DISTRICTS

Said districts, except flood plain and other overlay districts, are located and bounded as shown on a map entitled "Zoning Map of Westport, Massachusetts," dated March 28, 1974, and on file in the office of the Town Clerk. The Zoning Map, with all explanatory matter thereon, is hereby made a part of this By-Law. The map is described as follows:

A. As Residence/Agriculture: The portion of the Town bounded and described as follows:

Beginning at the boundary line between Little Compton and Westport at the southerly limit of private rights in the Atlantic Ocean, thence northerly along said boundary line to the southerly line of Adamsville Road; thence easterly in the southerly line of Adamsville Road to the southerly line of Cornell Road, thence easterly in the southerly line of Cornell Road to the west line of Main Road; thence easterly in right angles to the west line of Main Road across Main Road to the east line thereof and continuing easterly in the same course one thousand feet; thence southerly in a line parallel to the east line of Main Road and one thousand feet easterly there from to a point distant northerly one thousand feet measured in a southerly extension of said line from the west line of Drift Road thence easterly; northeasterly and northerly in a line parallel to the west line of Drift Road and one thousand feet there from to the south line of Kirby Road; thence easterly in the south line of Kirby Road one thousand feet more or less to the west line of Drift Road; thence easterly at right angles to the west line of Drift Road across Drift Road to the east line thereof and continuing easterly in the same course to the East Branch of the Westport River and into said River as far as private rights extend; thence southerly by the East Branch of said River to Westport Point; thence northwesterly by the West Branch of said River to the head thereof; thence southeasterly by the West Branch of said River to the Ocean; thence westerly by the Ocean to the place of beginning.

All of that portion of the Town not previously voted by a two-thirds vote of a Town Meeting to be included in the Business District bounded and described as follows:*

Southerly by the American Legion Highway (Route 177); Westerly by the Westport-Fall River boundary line and the South Watuppa Pond; Northeasterly by the State Highway (Route 6); Easterly by the Westport-Dartmouth boundary line.

That portion of the Town, bounded and described as follows:

Northerly by Interstate 195; Easterly by the Westport-Dartmouth boundary line; Southerly by a line five hundred (500) feet north of and parallel to the north line of the State Highway (Route 6); Westerly by the east line of Washington Street extended to Interstate 195.

That portion of the Town, bounded and described as follows:

Beginning at a point on the westerly line of Washington Street, which point is 500' on a perpendicular line from the northerly line of the State Highway (Route 6); thence northwesterly 500' along a line which is 500' from and parallel to the northerly line of the State Highway (Route 6); thence northwesterly and northerly along a line parallel to and 500' on a perpendicular line from the westerly line of Washington Street to the northerly line of Hobart Street; thence easterly 150' in the northerly line of said Hobart Street; thence northerly in a line parallel to said westerly line of Washington Street for a corner at a point which is on a perpendicular line to the westerly line of Washington Street and from the terminus of Washington Street, said terminus is at the intersection of westerly line of Washington Street and the southerly line of Interstate Route 195; thence at a right angle easterly 350' to the westerly line of Washington Street; thence southerly and southwesterly along the westerly line of Washington Street to the point of beginning.

That portion of the Town, bounded and described as follows:

Northerly by the Westport-Fall River boundary line; Easterly by the Westport-Dartmouth boundary line;

Southerly by the north line of Old Bedford Road;
Westerly by the Westport-Fall River boundary line.

All of that portion of the Town, not previously voted by a two-thirds vote of a Town Meeting to be included in the Business District bounded and described as follows:*

Beginning at the intersection of the south line of the American Legion Highway (Route 177) with the Westport-Fall River boundary line; thence easterly along said south line of the American Legion Highway to its intersection with the west line of Old County Road to the west line of Main Road; thence southerly along said west line of Main Road to a point one thousand (1,000) feet northerly of the north line of Kirby Road; thence westerly at a right angle to the west line of Main Road one thousand (1,000) feet; thence southerly along a line which line is one thousand (1,000) feet westerly from, and parallel to the west line of Main Road, to the south line of Cornell Road; thence westerly along said south line of Cornell Road to its intersection with the south line of Adamsville Road; thence southwesterly along said south line of Adamsville Road to the Westport-Rhode Island boundary line; thence northerly along said boundary line to the Westport-Fall River boundary line; thence northerly along last said boundary line and Sawdy Pond to the point of beginning.

All that portion of the Town, not previously voted by a two-thirds vote of a Town Meeting to be included in the Business District, bounded and described as follows:*

Beginning at a point on the south line of Kirby Road, which point is one thousand (1,000) feet easterly of the intersection of the south line of Kirby Road with the east line of Main Road; thence southerly along a line, which is one thousand (1,000) feet easterly from, and parallel to the east line of Main Road to a point one thousand (1,000) feet northerly of the west line of Drift Road; thence northerly along a line, which line is one thousand (1,000) feet westerly from, and parallel to the west line of Drift Road, to a point on the south line of Kirby Road; thence easterly along the south line of Kirby Road to the west line of Drift Road; thence easterly at right angles to the west line of Drift Road across Drift Road to the east line thereof and continuing easterly in the same course to the west bank of the East Branch of the Westport River, and into said River as far as private rights extend; thence northerly along the west bank of the East Branch of the Westport

River to the south line of Old County Road; thence southerly along the east bank of the East Branch of the Westport River to the east bank of the Let; thence southerly along the east bank of the Let to a point, which point is on the westerly extension of the north line of Third Street; thence easterly along the north line of Third Street as extended to Horseneck Road and Westport-Dartmouth boundary line; thence northerly along the Westport-Dartmouth boundary line to the south line of American Legion Highway (Route 177); thence westerly along the south line of American Legion Highway (Route 177) to the west line of Old County Road; thence southerly along the west line of & Old County Road to the east line of Main Road; thence southerly along the east line of Main Road to a point one thousand (1,000) feet northerly of the intersection of the north line of Kirby Road with the east line of Main Road; thence easterly at right angles to the east line of Main Road one thousand (1,000) feet; thence southerly along a line, which line is one thousand (1,000) feet easterly from, and parallel to the east line of Main Road, one thousand (1,000) feet to the north line of Kirby Road and thence in the same course to the point of beginning.

All that portion of the Town, not previously voted by a two-thirds vote of a Town Meeting to be included in the Business District, bounded and described as follows:*

On the east by the Westport-Dartmouth boundary line from the Atlantic Ocean to the easterly extension of the north line of Third Street; on the south by the Atlantic Ocean; on the west by the West Branch of the Westport River; on the north, by the West and East Branches of the Westport River, by the east bank of the Let and by the north line of Third Street and its extension westerly to the Let; including all the islands in the Westport River, the Horseneck and Gooseberry Neck.

All that portion of Town lying northerly of Interstate Route 195.

(1957 STM, Article 6; 1963 ATM, Article 38; 1973 STM, Articles 27, 28, 29, 31, 38, 42 & 44; 1975 STM, Article 11; 1987 ATM, Article 80; 1990 ATM, Articles 45 & 49; 2008 ATM, Article 45)

(Editorial Note): The 1963 Article added the introduction to this section, which was amended by Article 44 in 1973 to incorporate the updated zoning map, and again by Article 11 in 1975 which added the words "except flood plain districts." Articles 27, 28, 29, 31, 38, and

42 passed in 1973 added the second, third, fourth, fifth, sixth and seventh descriptive paragraphs. The 1990 ATM, Article 45 changed the Residence District name to "Residence/Agriculture District" while Article 49 changed a portion of the Unrestricted District to Residence/Agriculture, which added the present fourth paragraph. The 2008 ATM added the words "and other overlay districts" in the first line of 3.1 Location of Districts.

*All references above to "Business Districts voted by Town Meeting" refer to zones contained in 3.1.B., below.

B. As Business: The portion of the Town bounded and described as follows:

Beginning at the intersection of the south line of Cornell Road and the west line of Main Road; thence easterly at right angles to the west line of Main Road across Main Road to the east line thereof and continuing easterly in the same course one thousand feet; thence northerly in a line parallel to the east line of Main Road and one thousand feet easterly there from to a point distant northerly one thousand feet measured in said line from the north line of Kirby Road; thence westerly at right angles to the east line of Main Road one thousand feet to the east line of Main Road; thence continuing westerly in the same course across Main Road to the west line of Main Road and continuing westerly in the same course one thousand feet beyond the west line of Main Road; thence southerly in a line parallel to the west line of Main Road and one thousand feet westerly there from to the south line of Cornell Road; thence easterly in the south line of Cornell Road one thousand feet more or less to the place of beginning.

The portion of the Town bounded and described as follows:

Southerly by the American Legion Highway (Route 177); (Route 6); Easterly by the Westport-Dartmouth boundary line.

The portion of the Town bounded and described as follows:

Beginning at the intersection of the west line of Forge Road with the north line of the American Legion Highway (Route 177); thence proceeding northerly along said west line of Forge Road five hundred (500) feet; thence proceeding westerly along a line, which line is five

hundred (500) feet northerly from, and parallel to the north line of the American Legion Highway to a point on the east line of Sanford Road; thence proceeding southerly along said east line of Sanford Road five hundred (500) feet to the north line of the American Legion Highway (Route 177); thence proceeding easterly along said north line of the American Legion Highway to the point of the beginning.

The land bounded and described as follows:

Beginning at the intersection of the south line of the American Legion Highway (Route 177) with the west line of Beeden Road; thence proceeding westerly along the south line of said American Legion Highway to a point two thousand (2,000) feet west of the southerly extension of the west line of Sanford Road; thence proceeding south five hundred (500) feet; thence proceeding easterly along a line, which line is five hundred (500) feet southerly from, and parallel to the south line of the American Legion Highway, to a point on the west line of Beeden Road; thence proceeding northerly five hundred (500) feet along the west line of Beeden Road to the point of beginning. Beginning at the intersection of the west line of Old County Road with the north line of Mouse Mill Road; thence proceeding westerly four hundred (400) feet; thence southerly and parallel to the west line of Old County Road four hundred (400) feet; thence easterly four hundred (400) feet to the west line of Old County Road; thence proceeding northerly four hundred (400) feet along the west line of Old County Road to the point of beginning.

The land bounded and described as follows:

Beginning at the intersection of the south line of the line; thence southeasterly along said south line of said State Highway (Route 6) to the west line of Forge Road; thence southerly along said west line of Forge Road to a point five hundred (500) feet northerly of the north line of the American Legion Highway (Route 177); thence westerly along a line, which line is five hundred (500) feet northerly from, and parallel to the north line of the American Legion Highway, one thousand (1,000) feet; thence northerly to a point, which is five hundred (500) feet east of the end of the east line of Center Street; thence northerly along a line, which line is five hundred (500) feet easterly from and parallel to the east line of Center Street to a point five hundred (500) feet southerly from the south line of the State Highway

(Route 6); thence northwesterly along a line, which line is five hundred (500) feet southerly from, and parallel to the south line of the State Highway, to the Westport-Fall River boundary line; thence northerly five hundred (500) feet along said boundary line to the point of beginning.

The land bounded and described as follows:

Beginning at the intersection of the north line of the State Highway (Route 6) with the Westport-Dartmouth boundary line; thence northwesterly along said north line of the State Highway (Route 6) to the east line of Washington Street; thence northerly along said east line of Washington Street; five hundred (500) feet; thence southeasterly along a line, which line is five hundred (500) feet northerly from and parallel to the north line of State Highway (Route 6) to a point on the Westport-Dartmouth boundary line; thence southerly along said boundary line to the point of beginning.

The portion of the Town, bounded and described as follows:

Beginning at the intersection of the westerly line of Washington Street and the northerly line of the State Highway (Route 6); thence northwesterly along said northerly line of the State Highway (Route 6) to its intersection with the easterly line of Davis Road; thence northeasterly along said easterly line of Davis Road to a point which is 500' on a perpendicular line from the northerly line of the State Highway (Route 6); thence southeasterly along a line, which is 500' from and parallel to the northerly line of the State Highway (Route 6) to the westerly line of Washington Street; thence southeasterly along said westerly line of Washington Street to the northerly line of the State Highway (Route 6) to the point of beginning. The portion of the Town, bounded and described as follows:

Beginning at the intersection of the north line of the American Legion Highway (Route 177) with the west line of Sanford Road; thence northerly along the west line of Sanford Road one thousand (1,000) feet; thence westerly along a line, which line is northerly from, and parallel to the north line of the American Legion Highway, two thousand (2,000) feet; thence southerly along a line, which line is parallel to the west line of Sanford Road, one thousand (1,000) feet to a point on the north line of the American Legion Highway (Route 177); thence

easterly along said north line of the American Legion Highway (Route 177) to the point of beginning.

The portion of the Town, bounded and described as follows:

Beginning at a point in the south line of Hix Bridge Road, which point is one thousand (1,000) feet easterly from the intersection of said south line with the east line of Main Road; thence southerly along a line, which line is one thousand (1,000) feet easterly from, and parallel to the east line of Main Road one thousand (1,000) feet; thence easterly at a right angle to the last said line to Route 88; thence northerly along Route 88 to the south line of Kirby Road; thence westerly along said south line of Kirby Road to a point, which point is one thousand (1,000) feet easterly from the intersection of said south line with the east line of Main Road; thence southerly along a line, which line is one thousand (1,000) feet easterly from, and parallel to the east line of Main Road to the point of beginning.

The portion of the Town, bounded and described as follows:

Beginning at the intersection of the east line of Route 88 with the north line of Hix Bridge Road; thence northerly along the east line of Route 88 one thousand (1,000) feet; thence proceeding easterly along a line, which line is one thousand (1,000) feet northerly from, and parallel to the north line of Hix Bridge Road, five hundred (500) feet; thence proceeding southerly along a line, which line is five hundred (500) feet easterly from, and parallel to the east line of Route 88, to a point, which point is one thousand (1,000) feet southerly of the south line of Hix Bridge Road; thence proceeding westerly along a line which line is one thousand (1,000) feet southerly from, and parallel to the south line of Hix Bridge Road, five hundred (500) feet to the east line of Route 88; thence northerly along the east line of Route 88 to the point of beginning.

The portion of the Town bounded:

Northerly by Interstate Route 195;
Easterly by Old Bedford Road;
Southerly by Route 6;
Westerly by the Westport-Fall River boundary line.

The portion of the Town bounded as follows:

Bounded on the east by Route 88; on the south by the State Highway (Route 6); on the north by Interstate Route 195, and on the west by Old Bedford Road.

The portion of the Town bounded as follows:

Bounded on the west by Route 88; on the north by Interstate Route 195; on the east by Davis Road; and on the south by State Highway (Route 6).

(1957 STM, Article 6; 1973 STM, Articles 20, 21, 22, 23, 24, 25, 32 & 33; 1975 ATM, Article 38; 1990 ATM, Articles 46, 47 & 48)

(Editorial Note): The July 1973 meeting added paragraphs 2, 3, 4, 5, 6, 7, 8, and 9. The 1975 Article added the last paragraph "to clarify the zoning status of property currently occupied by White's Restaurant." Articles 46, 47, and 48 in 1990 changed portions of the Unrestricted District to the Business District as described in 3.1.B present paragraphs 7, 11, and 12 respectively.

C. As Unrestricted: All remaining portions of the Town.

(1963 ATM, Article 38)

D. Flood Plain District: See Article 6 and the maps referenced in Section 6.2.

(1975 STM, Article 11; 1977 ATM, Article 54; 2006 ATM, Article 8; 2009 ATM Article 31)

(Editorial Note): Article 8 of the 2006 ATM replaced section 3.1.D and then Article 31 of the 2009 ATM replaced section 3.1.D.

E. Aquifer Protection District: See Article 8 and map.

F. Telecommunications Facilities Overlay District: See Article 9 and Zoning Map.

G. Adult Entertainment Overlay District: The portion of the Town described as the following assessors' parcels as of May, 2008:

Assessor's Map 3, Lots 144, 144B through E

Assessor's Map 3, Lots 145 and 146

Assessor's Map 4, Lots 13 through 15, 16 and 16A

Assessor's Map 4, Lots 17 & 17A.

and further described on the Adult Entertainment Overlay District zoning map detail approved May, 2008, on file with the Town Clerk.

(Editorial Note): Article 54 of 1977 amended the map designation.

H. Noquochoke Overlay District: The portion of the Town described as the following assessors' parcels as of November, 2008:

Assessor's Map 33, Lot 17
Assessor's Map 33, Lot 45
Assessor's Map 33, Lot 47
Assessor's Map 33, Lot 47A
Assessor's Map 33, Lot 47E

And further described on the Noquochoke Overlay District Zoning Map detail approved May, 2009 on file with the Town Clerk.

(1998 ATM, Article 63 added the Aquifer Protection District and Article 65 added the Telecommunications Facilities Overlay District; 2008 ATM added the Adult Entertainment Overlay District; 2009 ATM added the Noquochoke Overlay District)

ARTICLE 4

USE REGULATIONS (Formerly Section IV)

4.0 Except as provided in Section 4.1.0 hereof, no building or structure shall be constructed, and no building, structure or land, or part thereof shall be used for any purpose or in any manner other than for one or more of the uses hereinafter set forth as permitted in the district in which such building, structure or land is located, or set forth as permissible by special permit in said district and so authorized.

4.0.1 Residence/Agriculture Districts

- A.** Permitted Uses
(SEE TABLE OF USE REGULATIONS - pages 91-95)
- B.** Accessory use on the same premises, including, but not limited to the following:
 - 1.** Use of room or rooms in a dwelling for customary home occupations conducted by

resident occupants, such as dressmaking, candy making, or for the practice, by a resident, of a recognized profession.

2. Use of premises or building thereon in connection with his trade by a resident carpenter, electrician, painter, plumber or other artisan, provided that no manufacturing or business requiring substantially continuous employment be carried on.
3. Display of a sign pertaining to a permitted use with a total area of not more than six (6) square feet.
4. Use of the premises by a resident fisherman, possessing a commercial shellfish license, for the shucking or removal of meats from shellfish, caught by said resident.
5. Use of an accessory apartment, an independent dwelling unit of five hundred (500) to nine hundred (900) square feet contained within a single-family residence. The unit shall have a separate exterior entrance, a kitchen/living room, a bathroom and a maximum of one bedroom. Either unit shall be occupied by the owner.

One Accessory apartment shall be allowed by right providing the following criteria are met:

- a. Approval from the Board of Health.
- b. Approval from the Fire Department.
- c. Building, plumbing, electrical and any other required permits are obtained.
- d. The accessory apartment is contained within a single-family dwelling.
- e. If an external staircase is needed

to reach an accessory apartment, this staircase must be enclosed and not change the general appearance of a single-family house.

- f.** Space may be provided by either raising the roof, or extending the dwelling, but only in accordance with current height and setback requirements.
- g.** To maintain the single-family character of the neighborhood, the entrance to the accessory apartment should be on the side or rear, if possible, but may be through the front door, if there is a vestibule.
- h.** The owner must occupy one of the two units.
- i.** There shall be no more than one accessory apartment within a single-family dwelling.
- j.** Accessory apartments shall be occupied by no more than 2 persons.
- k.** The family dwelling containing an accessory apartment shall be in conformity with By-Law "**Permitted Uses - d.** Renting of rooms or furnishing of board for not more than four persons in a dwelling regularly occupied for residential purposes."
- 1.** The gross area of the accessory apartment shall be: **minimum** - 500 square feet; **maximum** - 35% of the total area of the single-family dwelling before conversion, but not to exceed 900 square feet, exclusive of staircase and entrance area.

(2006 ATM, Article 6)

- C.** The keeping of less than four dogs, three

months old or over except that multi-family (houses or premises containing more than three separate family) units may have a maximum of one dog per separate family unit.

D. Uses which may be permitted by the Board of Appeals in accordance with the regulations appearing in 2.4.2.1 of this By-Law.

1. Private club not conducted for profit.
2. Conversion of a one-family dwelling existing at the time of adoption of this By-Law into a two-family dwelling.
3. Bath houses, beach clubs, boat landings, wharves, and boat yards for construction, storage, maintenance and repair of boats.
4. Public or private golf courses; which shall not include driving tees, ranges, miniature courses and similar uses operated for commercial purposes.
5. Public or private facilities for outdoor recreation including play and sporting areas, horseback riding, swimming, skin-diving, camping, boating, hiking, field trails, nature study and fishing.
6. Public or private facilities for the hatching and propagation of finfish and shellfish.
7. The keeping of more than three dogs, but less than seven, three months old or over for non-commercial/recreational purposes.
8. Bed and Breakfast consisting of renting rooms on a daily or weekly basis and providing breakfast meals to guests renting such rooms.
 - a. The only meal to be provided guests shall be breakfast, and it shall only be served to guests taking lodging at the facility and shall

be included in the guestroom rate. The business owner shall conform to any requirements of the Massachusetts Department of Public Health and the Department of Public Health and Code Enforcement, adhere to all existing rules, regulations, codes and other Federal, Commonwealth of Massachusetts and Town of Westport requirements pertaining to health and safety as typically regulated and enforced by the Building Department, Board of Health, Conservation Commission, Fire Department, Planning Board and/or Board of Selectmen. A maximum of two guests per room are allowed and children under the age of twelve (12) shall not be considered in the total number of guests. Guestroom shall not include individual kitchen facilities and shall have at least one toilet, one bath/shower, and one washbasin separate from those required for the single-family residence portion of the dwelling. Additionally not more than forty-five (45%) percent of the entire habitable living space shall be allocated for Bed and Breakfast establishment purposes. One non-illuminated sign may be erected on the property, not to exceed eight (8) square feet in size, with no single dimension exceeding four feet (4').

9. Wind Energy Facility, commercial.
10. Wind Energy Facility, commercial or non-commercial, with tower height over 140 feet.
11. Shared Wind Energy Facilities.
12. Wind turbines, three or more on one parcel.

(2007 ATM, Article 21)

- E.** Uses which may be permitted by the Planning Board in accordance with Section 2.6 Special Permits - Planning Board.

- 1.** Assisted and Independent Living Facilities (Article 11.0)

(1957 STM, Article 5; 1963 ATM, Article 38; 1973 STM, Articles 18 & 43; 1975 ATM, Article 42; 1977 STM, Article 7; 1978 ATM, Article 25; 1979 ATM, Article 21; 1981 ATM, Article 42; 1990 ATM, Article 53; 2000 ATM, Article 51; 2003 ATM, Article 48; 2005 ATM, Article 5, 2007 ATM, Article 21) (References are to former sections)

(Editorial Note): Article 38 in 1963 added the introductory paragraph. Article 18 in 1973 added section "A(6) Two-family dwelling" and Article 43 added sections B(4), B(5) and B(6). In 1975, Article 42 added section A(8). Article 7 in 1977 added section A(5)(d). In 1978, Article 25 added the second and third sentences to section A(8). Section A(9) was added by Article 21 of 1979. The second and third sentences in section A(8) were deleted by Article 42 in 1981. Article 53 in 1990 added section 4.0.1.B.5. allowing one accessory apartment with criteria. (See Appendix.) Article 48 of the 2003 ATM added provisions for a Bed & Breakfast. Article 5 of the 2005 ATM added provisions for Assisted and Independent Living Facilities. Article 6 of the 2000 ATM revised 4.0.1.B.5.(d), deleted the entire section of 4.0.1.B.5.(e), changed the numbering of 4.0.1.B.5.(f) to 4.0.1.B.5.(e), deleted 4.0.1.B.5(g) and inserted a new section 4.0.1.B.5(f) and then renumbered the balance of that section of article 4.0.1.B.5.(g) through 4.0.1.B.5.(l). Article 21 of the 2007 ATM added 4.0.1.D.8 -12 provisions for wind turbines.

4.0.2 Business District

- A.** Permitted Uses
(SEE TABLE OF USE REGULATIONS - pages 91-95)
- B.** Any wholesale or retail business, research laboratory, service, or public utility not involving manufacture on the premises, except for products, the major portion of which is sold on the premises by the producer to the consumer.
- C.** Uses which may be permitted by the Board of Appeals in accordance with the regulations appearing in Section 2.4.2.1 of this By-Law.
 - 1.** Place of amusement of assembly, club conducted for profit.

2. Wind Energy Facility, commercial.
3. Wind Energy Facility, commercial or non-commercial, over 140 feet in height.
4. Shared Wind Energy Facilities.
5. Wind turbines, three or more on one parcel.

(2007 ATM, Article 21)

- D. (2008 ATM, Article 45 deleted this section)

(1963 ATM, Article 38; 1998 ATM, Article 64)

4.0.3 Unrestricted District

- A. Any lawful use shall be permitted, provided that it does not impair the use of adjacent properties by reason of dirt, odor, fumes, smoke, gas, sewage, refuse, noise, excessive vibration, or danger of explosion or fire.
- B. No new tire storage yard or site shall be established, and no existing tire storage yard or site shall be expanded in area, inventory, or capacity, without a special permit granted by the Board of Appeals in accordance with the regulations appearing in Section 2.4.2.1. of this By-Law. For purposes of this section, "tires" shall include new or used rubber tires, tire casings, tire tubes, rubber scraps, and/or any other by-product of rubber tires.
- C. (2008 ATM, Article 45 deleted this section)
- D. Uses that may be permitted by the Board of Appeals in accordance with Section 2.4.2.1 of this by-law:
 1. Wind Energy Facility, commercial.
 2. Wind Energy Facility, Commercial or Non-commercial, over 140 feet in height.
 3. Shared Wind Energy Facilities.

4. Wind turbines, three or more on one parcel.

(1963 ATM, Article 38; 1987 ATM, Article 78; 1998 ATM, Article 64; 2006 ATM, Article 9; 2007 ATM, Article 21)

4.0.4 Flood Plain District

- A. Any use permitted in the applicable residence/ agriculture, business or unrestricted district in which the flood plain district is located except that no new construction, substantial improvement or other land development shall be permitted unless it is demonstrated by the applicant that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the Town.

(1975 STM, Article 11; 1978 ATM, Article 22)

(Editorial Note): The 1978 Article replaced everything after "located" in the first sentence. See Appendix for prior version. The 2007 Article added the provisions for wind energy facilities.

4.0.5 Aquifer Protection District (See Article 8)

4.0.6 Telecommunications Facilities Overlay District (See Article 9)

4.0.7. Adult Entertainment Overlay District (AEOD - see Article 16)

4.0.8 Noquochoke Overlay District (NOD - see Article 19)

(2009 ATM, Article 28)

4.1 NON-CONFORMING USES

- 4.1.0 The lawful use of any structure or land existing at the time of the enactment or subsequent amendment of this By-Law may be continued although such structure or use does not conform with the regulations of the district in which it is located and allow the right to be sold to any equal or similar business.

4.1.1 Abandonment

A non-conforming use, which has been abandoned four years shall not be re-established and any future use shall conform with this By-Law.

4.1.2 Changes

A non-conforming use may be changed so as to conform to this By-Law but once changed to a conforming use, no structure or land shall be permitted to revert to a non-conforming use. A non-conforming use or structure may be changed provided there is a finding by the Board of Appeals that such change shall not be substantially more detrimental than the existing non-conforming use to the neighborhood.

4.1.3 Alteration

Pre-existing non-conforming structures or uses may be altered provided there is a finding by the Board of Appeals that such alteration shall not be substantially more detrimental than the existing non-conforming use to the neighborhood.

4.1.4 Restoration

A non-conforming structure damaged or destroyed by fire or other causes may be repaired or rebuilt.

4.1.5 Signs

The above provisions shall not apply to billboards, signs, or other advertising devices subject to the provisions of Section 29-33, inclusive of, Chapter 93 and to Chapter 93D of the General Laws.

(1963 ATM, Article 38; 1973 STM, Article 16; 1978 ATM, Article 21; 2008 ATM, Article 45)

(Editorial Note): Article 16 of 1973 repealed the 1963 section - See Appendix for earlier version. Article 21 changed sections 4.3.2 0 - 4.3.4 substantially and added section 4.3.5. At the May 3, 2006 ATM, Article 9 replaced section 4.0.3.C and added sections a. through j. and sections 1 through 8.

4.2

COMPLIANCE WITH M.G.L CHAPTER 40A

It is the intent and purpose of these By-Laws to conform with M.G.L. Chapter 40A and amendments thereto, and to the extent that any provisions hereof are in conflict with the provisions of said Chapter 40A, the provisions of Chapter 40A shall supersede and control the subject matter thereof. Additionally, all matters of procedure regarding Zoning By-Laws and provisions thereof are specifically incorporated herein by reference thereto.

(1978 ATM, Article 21)

ARTICLE 5

PARKING AND SIGN REGULATIONS (Formerly Sections VI I & VI B)

5.1 OFF-STREET PARKING

5.1.0 Parking facilities off the street right-of-way on any lot which is hereafter developed for new construction shall be provided on the same lot as the building for each use within the district or within a radius of 500 feet of any part of the building which it is intended to serve. Off-street parking shall be designed to prevent the necessity of any vehicles backing into a public way. No parking shall be less than 5 feet from a road or property line. Each parking space shall have a usable area of at least 180 square feet and be served by a two-way access lane at least 26 feet wide, except that if parking stalls are angled at 60 degrees or less, a one-way access lane may be used with a minimum of 20 feet. The 26-foot two-way access lane shall not be required for dwellings of up to four units. In such cases a 12-foot one-way access is sufficient. Joint use of off-street parking facilities is permitted provided that the area of such facilities shall be not less than the sum of the requirements of the various users computed in accordance with the schedule. The number of spaces required for each use shall be determined by the Building Inspector based upon the following criteria:

Use

Minimum Requirements

Residence - housekeeping, rooms
For roomers or boarders,

1.5 spaces per unit.

apartments, multi-family

Customary Home Occupation or
recognized profession

1 space for each home
occupation or profession in
addition to residential
requirements.

Retail stores, Financial
Institutions, Consumer Services,
Professional or Business Services
and similar businesses, and
municipal buildings except schools.

1 space for each 200 square
feet floor space.

Wholesale showrooms and operations,
warehouses and storage areas

1 space for each 1,000 sq. ft.
plus one additional space for
each 2 employees actively
engaged at any one time.

Bed and Breakfast

1 space per guest room, plus
two spaces for the residence,
in a location normal for
residential use, and on the
premises.

Hotels and Motels

1 space per room and 1 space
for every three seats in
restaurants and meeting rooms
and 1 space for each two
employees.

Restaurants, clubs, theaters,

1 space for every 3 seats,
churches or other places of
public 50 square feet of gross
assembly floor area and 1
space for every 2 employees.

Barber shops and beauty parlor

3 spaces for each operator

Bowling alley and Tennis Courts

4 spaces for each alley or
court.

For any use not specifically listed

1.5 spaces for each 1,000
square feet of floor space and
1 space for each 2 employees.

5.1.1 Other uses conducted for profit on premises within
or without a building such as flea markets,
auction houses, churches and fairs shall provide
for off-street parking in accordance with use

schedule.

The Board of Appeals may grant a special permit to any person or organization to allow for sporadic or intermittent use of a premises without complying with the requirements of this section.

- 5.1.2** Industrial and Commercial buildings shall provide adequate parking, maneuvering, and loading space on premises for freight and delivery trucks in addition to the minimum requirements for spaces in paragraph 5.1.0 above.

(1984 ATM, Article 35)

(Editorial Note): The 1984 Article rescinded the off-street parking regulation adopted at the Sept. 13, 1983 STM, Article 19, and substituted the above section therefore. (See Appendix for original).

5.2 SIGNS

- 5.2.1** The provisions of Section 29-33, Chapter 93 G.L., (relating to outdoor advertising), and the Rules and Regulations adopted thereunder by the Outdoor Advertising Division of the Massachusetts Highway Department.
- 5.2.2** Nothing in this By-Law shall be construed to abrogate:
- A.** The Town's control under Ch. 87, Section 9, governing signs placed on shade trees, enforceable by the Tree Warden;
 - B.** The Town's control under Ch. 85, Section 8, over signs placed within a public way, enforceable by the Selectmen;
 - C.** The Town's control under Ch. 111, Section 123 to 125, governing Board of Health action against nuisances.

ARTICLE 6

WESTPORT FLOOD PLAIN DISTRICTS

6.1 STATEMENT OF PURPOSE

The purposes of the Flood Plain District are to:

- 6.1.1 Ensure public safety through reducing the threats to life and personal injury;
- 6.1.2 Eliminate new hazards to emergency response officials;
- 6.1.3 Prevent the occurrence of public emergencies resulting from water quality, contamination, and pollution due to flooding;
- 6.1.4 Avoid the loss of utility services, which if damaged by flooding would disrupt or shut down the utility network and impact regions of the community beyond the site of flooding;
- 6.1.5 Eliminate costs associated with the response and cleanup of flooding conditions;
- 6.1.6 Reduce damage to public and private property resulting from flooding waters.

6.2 FLOOD PLAIN DISTRICT BOUNDARIES, FLOODWAY DATA AND BASE FLOOD ELEVATION

The Flood Plain District, Flood Way Data and Base Flood Elevation are as follows:

Flood Plain District Boundaries and Base Flood Elevation Data

The Flood Plain District is herein established as an overlay district.

The District includes all special flood hazard areas within the Town of Westport designated as Zone A, AE, AH, AO, A99, V, or VE on the Bristol County Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The map panels of the Bristol County FIRM that are wholly or partially within the Town of Westport are panel numbers 25005C0342F, 25005C0344F, 25005C0353F, 25005C0354F, 25005C0361F, 25005C0363F, 25005C0366F, 25005C0368F, 25005C0432F, 25005C0442F, 25005C0452F, 25005C0454F, 25005C0456F, 25005C0458F, 25005C0459F, 25005C0461F, 25005C0462F, 25005C0463F, 25005C0464F, 25005C0466F, 25005C0467F, 25005C0468F, 25005C0469F, 25005C0526F, 25005C0531F and 25005C0550F dated July 7, 2009. The exact boundaries of the District may be defined by the 100-year

base flood elevations shown on the official FIRM (Flood Insurance Rate Map) dated July 7, 2009, and further defined by the Bristol County Flood Insurance Study (FIS) report dated July 7, 2009. The Firm and the FIS report are incorporated herein by reference and are on file with the Town Clerk, Planning, Building Inspector, Conservation Commission and Zoning Board of Appeals.

(2010 ATM, Article 35)

6.2.1 Floodway Data

In Zones A, A1-30, and AE, along watercourses that have not had a regulatory floodway designated, the best available Federal, State, local, or other floodway data consistent with the State Building Code as stated in 780 CMR, 7th Edition, Appendix 120.G301.1, Item 3, shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.

(2010 ATM, Article 35)

6.2.2 Base Flood Elevation Data

Base flood elevation data is required for subdivision proposals or other developments greater than 50 lots or 5 acres, whichever is the lesser, within unnumbered A zones.

6.3 NOTIFICATION OF WATERCOURSE ALTERATION

In a riverine situation, the Building Inspector/Zoning Enforcement Officer shall notify the following of any alteration or relocation of a watercourse:

- Adjacent Communities
- Bordering States (optional)
- NFIP State Coordinator
Massachusetts Department of Conservation and Recreation
251 Causeway Street, Suite 600-700
Boston, MA 02114-2104
- NFIP Program Specialist
Federal Emergency Management Agency, Region I
99 High Street, 6th Floor

6.4

USE REGULATIONS

6.4.1 Reference To Existing Regulations

The Flood Plain District is established as an overlay district to all other districts. All development in the district, including structural and non-structural activities, whether permitted by right or by special permit must be in compliance with Chapter 131, Section 40 of the Massachusetts General Laws and with the following:

- Section of the Massachusetts State Building Code, which addresses flood plain and coastal high hazard areas (currently 780 CMR 120.G, "Flood Resistant Construction and Construction in Coastal Dunes");
- Wetlands Protection Regulations, Department of Environmental Protection (DEP) (currently 310 CMR 10.00);
- Inland Wetlands Restriction, DEP (currently 310 CMR 13.00);
- Coastal Wetlands Restriction, DEP (currently 310 CMR 12.00);
- Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, DEP (currently 310 CMR 15, Title 5);

Any variances from the provisions and requirements of the above referenced state regulations may only be granted in accordance with the required variance procedures of these state regulations.

6.4.2 Other Use Regulations

- 6.4.2.1** Within Zones AH and AO on the FIRM, adequate drainage paths must be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

- 6.4.2.2** In Zones A1-30 and AE, along watercourses that have a regulatory floodway designated on the Bristol County Flood Insurance Rate Map (FIRM) encroachments are prohibited in the regulatory floodway, which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- 6.4.2.3** Man-made alteration of sand dunes within Zones V1-30, VE, and V, which, would increase potential flood damage are prohibited.
- 6.4.2.4** All new construction within Zones V1-30, VE, and V must be located landward of the reach of mean high tide.
- 6.4.2.5** All subdivision proposals must be designed to assure that:
- a.** Such proposals minimize flood damage;
 - b.** All public utilities and facilities are located and constructed to minimize or eliminate flood damage; and
 - c.** Adequate drainage is provided to reduce exposure to flood hazards.
- 6.4.2.6** Existing contour intervals of site and elevations of existing structures must be included on plan proposal.
- 6.4.2.7** There shall be established a "routing procedure," which will circulate or transmit one copy of the development plan to the Conservation Commission, Planning Board, Board of Health, Town Engineer, Building Commissioner and Zoning Board of Appeals for comments which will be considered by the appropriate permitting board prior to issuing applicable permits.

6.5 PERMITTED USES

Except as otherwise provided, in the Flood Plain District, no new building shall be constructed, and no existing structure shall be enlarged within its existing footprint, moved to a more vulnerable location, or altered except to upgrade for compliance with health and safety codes; nor shall any land, building or structure be used for any purposes permitted in the underlying district, except:

- 6.5.1 Agricultural uses such as farming, grazing, truck farming, horticulture, etc.
- 6.5.2 Forestry and nursery uses.
- 6.5.3 Outdoor recreational uses, including fishing, boating, play areas, etc., but excluding buildings and structures.
- 6.5.4 Conservation of water, plants, wildlife.
- 6.5.5 Wildlife management areas, foot, bicycle, and/or horse paths.
- 6.5.6 Temporary non-residential structures used in connection with fishing, growing, harvesting, storage, or sale of crops raised on the premises.
- 6.5.7 Uses lawfully existing prior to the adoption of these provisions.

(1975 STM, Article 11; 1978 ATM, Article 22; 1982 STM, Article 21; 1985 ATM, Article 48; 1985 STM; Article 11; 2006 ATM, Article 8; 2009 ATM, Article 31)

(Editorial Note): The original Flood Plain Zoning was inserted into the By-Law by Article 11, of a 1975 Special Town Meeting, and consisted of seven sections. In 1978, sentences were added to 6, sections 6.0.3 and 6.0.5 and 6.0.6. The original section 6, 6.0.8 submitted at that meeting did not pass. A new section, 6.0.9 was added. The 1981 Annual Town Meeting passed over Article 52, which attempted to add 6, sections 6.0.10 and 6.0.11 to allow trailers in the flood plain on a year-round basis. The revised Section 6, 6.6.11 was adopted at the adjourned Special Town Meeting held August 25, 1982. At the Annual Town Meeting, April 3, 1985, Section 6, 6.0.1 was replaced to conform to the Revised Flood Insurance Rate Map, effective retroactively to March 18, 1985. A new section 6, 6.0.8 was added at the June 11, 1985 Special Town Meeting. See Appendix for original 1975 flood zoning. Article 40 at the 5/23/96 ATM amended the Flood Insurance Rate Map effective date from 3/18/85 to 7/15/92. At the Annual Town Meeting, May 3, 2006,

Sections 6, 6.0.1, 6.0.4 & 6.0.5 were replaced to conform to the Westport Flood Insurance Rate Map, and 6.0.10 & 6.0.12 were added. Article 31 at the 2009 Annual Town Meeting replaced the existing language of Article 6 with language required by the Federal Emergency Management Agency to be in compliance with Title 44, Chapter I, Part 67, Code of Federal Regulation (see Appendix for original) Article 35 of the 2010 ATM revised two sections for the purpose of the acceptance of the official Flood Insurance rate Map (FIRM) from the Federal Emergency management Agency.

ARTICLE 7

INTENSITY REGULATIONS (Formerly Section V)

7.0 Except as is otherwise permitted under the provision of Section 6 of Chapter 40A of the General Laws, a dwelling hereafter erected or placed in any district shall be located on a lot having not less than 60,000 square feet of area and 150 feet of frontage. At least 30,000 square feet of that area must be contiguous upland. No existing lot shall be changed as to size or shape so as to result in the violation of such area or frontage requirements. And no more than one dwelling shall be built on any such lot. Provisions of this Article 7.0 shall not apply to any existing lot, which complies with previously approved intensity regulations as to area and frontage if such lot was recorded in the Registry of Deeds at the effective date of this regulation.

(1957 ATM, Article 36; 1959 ATM, Article 25; 1963 ATM, Article 38; 1970 ATM, Article 50; 1973 STM, Article 17; 1978 ATM, Article 21; 1995 ATM, Article 43; 2000 ATM, Article 50)

(Editorial Note): See Appendix for earlier versions. Article 17 of 1973 Special Town Meeting deleted all prior sections. Article 21 in 1978 inserted "section 6 of Chapter 40A" in place of "Section 5A or Section 7A of Chapter 40A".

7.1 A dwelling hereafter erected or placed in the Residence/ Agriculture District or in the Business District shall not exceed either 2 1/2 stories or 40 feet in height.

(1957 ATM, Article 36; 1970 ATM, Article 50; 1973 STM, Article 17)

(Editorial Note): See Appendix for earlier versions.

7.2 No dwelling for occupancy by two families shall hereafter be erected or located on a lot having an area of less than 80,000 square feet and 200 feet frontage. For each

additional 20,000 square feet of area and 50 feet of frontage in the lot, the size of the dwelling may be increased to accommodate one additional family or dwelling unit. A lot to contain a dwelling for occupancy by more than one family must contain not less than 30,000 square feet of contiguous upland, plus 15,000 additional square feet of contiguous upland for each family in excess of one.

(1970 ATM, Article 50; 1973 STM, Article 17; 1995 ATM, Article 43; 2000 ATM, Article 50)

(Editorial Note): See Appendix for 1970 version.

7.2.1. Notwithstanding any contrary provisions in the foregoing requirements of Sections 7.1 and 7.2, or in the requirements of Section 7.6, the following dimensional and density requirements shall be applicable to Assisted Living Facilities and Independent Living Facilities authorized under Article 11 of this By-Law.

	Residence/ Agricultural	Business
Minimum land area per unit*	5,500 sq. ft.	5,500 sq. ft.
Minimum front setback	100 ft.	100 ft.
Minimum side and back yard setback/buffer	60 ft.	60 ft.
Minimum setback from surface water or wetlands	80 ft.	80 ft.
Minimum open space	50%	30%
Maximum height	40 ft.	40 ft.
Minimum frontage	200 ft.	200 ft.

- Exclusive of wetland resource areas, water bodies, and required open space. For projects proposing more than 10 dwelling units, either assisted or independent living units, with more than 50% of these being rental units, the Planning Board may increase the total number of units allowed by 10%. At least 50% of the bonus units must be maintained as affordable units.

(2004 ATM, Article 18)

All age-qualified Assisted and Independent Living developments for the elderly must comply with the provisions of M.G.L. Chapter 151B, Section 4, including but not limited to the requirement that such development be built on one parcel or on contiguous parcels of land totaling at least five (5) acres in size.

(2005 ATM, Article 26)

- 7.3** No dwelling hereafter erected shall occupy, either alone or with other buildings, more than 65% of a corner lot nor more than 50% of any other lot, the measurements to be taken at ground level.

(1983 STM, Article 21)

- 7.4** Any lot hereafter created for any non-residential purpose in any district must conform to the minimum standards stated above of 150 feet of frontage and 60,000 square feet of area. At least 30,000 square feet of that area must be contiguous upland. Existing lots or parcels of land shall not be changed as to size or shape so as to result in the violation of such minimums and lots containing less than such minimums shall not be changed to further decrease the area or frontage but may be added to.

(1975 ATM, Article 39; 1995 ATM, Article 43; 2000 ATM, Article 50)

- 7.5** The current provisions of Section 7.0.1 Intensity Regulations pertaining to frontage and/or area requirements shall not apply to a lot for single family residential use which at the effective date of this bylaw amendment was not held in common ownership with any adjoining land and had less than the current requirement, but at least 20,000 square feet of area and 100 feet of frontage. This bylaw shall apply only to such land as is currently recorded in the Registry of Deeds.

(1982 STM, Article 22)

7.6 YARD OR SET-BACK REQUIREMENTS

7.6.1 Front Yards

Every building or structure shall be built or placed on a lot so that there shall be a front yard at least 25 feet clear depth from the street line or lines to be part of such building or

structure closest to the street line; provided that no building or structure need be set back more than the average of the set backs of the building next thereto within 250 feet on both sides of the lot in question.

7.6.1.1 Front Yard Width

7.6.1.1.1 Purpose

The purpose of this By-Law is convenient access to buildings; and to discourage irregularly configured front yards and lots, which create difficulties in assigning addresses, in public safety response, and in maintenance.

7.6.1.1.2 Minimum Width

The minimum front yard width, as measured between the side lot lines, shall be fifty (50) feet. The minimum front yard width shall be maintained from the street line (street layout line/sideline) to the street setback line (front building line). Lot Width shall be determined by measuring the diameter of the largest circle that can be located along a continuous, but not necessarily straight line from the lot frontage to the principal structure on the lot without the circumference intersecting the side lot lines.

7.6.1.1.3 Corner Lots

For corner lots, the minimum width requirement shall apply to yards on all streets bounding the lot, and shall be maintained from the street line (street layout

line/sideline) to the street setback line (side or rear building line) of the nearest corresponding side of the building.

7.6.1.1.4 Waiver

In order to accommodate constraints posed by existing irregular lots and streets, such as lots fronting on existing streets with small sideline radii (tight curves) and existing lots with environmental, agricultural and topographic constraints, or historical significance, this requirement may be waived or modified by the grant of a special permit by the Planning Board, upon findings by that Board that waiving this requirement will not detract from the public health, safety, welfare and convenience and that such waiver is not inconsistent with the intentions of this By-Law. In such cases, the lot shall comply to the greatest extent practicable with this provision.

7.6.1.1.5 Applicability

The minimum front yard width requirements of Section 7.6.1.1 requirement shall apply to all subdivision or re-subdivision of land into new lots, by whatever process, with the exception of creation of lots measuring 7 acres or more. The re-configuration of lawfully pre-existing non-conforming lots shall not increase the degree of non-conformity of the front yard

width.

(2006 ATM, Article 5)

7.6.2 Side Yards

At each side of every building or structure, there shall be a side yard not less than ten feet in clear width between side of the building or structure and the side lot lines. However, in the case of corner lots, there shall be a set back requirement of 25 feet from the street line to the side of any building or structure; provided that no building or structure need be set back more than the average of the set backs of the buildings next thereto within 250 feet of said lot in question.

7.6.3 Rear Yards

Behind every building or structure there shall provided a back yard between the rear line of a building or structure and the rear lot line not less than six feet in depth and/or 25 feet from a rear street line.

(1982 STM, Article 19)

(Editorial Note): The 1982 article rescinded existing By-Laws and/or regulations concerning set backs and inserted the above setback requirements into the Zoning By-Law. Article 5 of the 2006 ATM added 7.6.1.1 "Front Yard Width" and sections 7.6.1.1.1. through 7.6.1.1.5.

7.6.4 Whenever a property line, road layout or street line cannot be determined with certainty, and there is a clearly defined traveled portion of the street or way consisting of pavement, gravel or other road surface material, a building or structure shall be set back a minimum of fifty (50) feet from the edge of the traveled portion of such way, in lieu of twenty-five (25) feet from the line of the layout.

(1987 ATM, Article 74)

7.7 (Reserved)

7.8 Any lot shown on a recorded plan which was endorsed by the Planning Board under General Laws, Chapter 41, Section 81P because the plan depicted a division of land on which two or

more substantial buildings were standing when the Subdivision Control Law went into effect in the Town into separate lots, on each of which one of such buildings remained standing on the date the plan was endorsed, shall hereafter be treated for all purposes hereunder as a lawful, pre-existing non-conforming lot. No such lot shall hereafter be changed to create a new violation of any provision of these By-Laws, or increase or change an existing non-conformity with these By-Laws.

(1998 ATM, Article 74)

ARTICLE 8

AQUIFER PROTECTION DISTRICT

8.0 PURPOSE OF DISTRICT

The purpose of this Aquifer Protection District is:

- A.** To protect, preserve and maintain the groundwater supply and the major groundwater recharge areas within the Town.
- B.** To preserve and protect the sources of water supply for the public health and safety.
- C.** To conserve the natural resources of the Town.
- D.** To protect the groundwater and the major groundwater recharge areas of the Town from adverse land use practices.

8.1 SCOPE

The Aquifer Protection District encompasses those areas of the Town where groundwater flow rates equal 1400 gallons per minute (G.P.M.) or greater, as delineated on a map on file at the office of the Town Clerk, which map reflects the best USGS hydro-geologic information as of the date of enactment hereof. The boundaries encompass the aquifer, and the aquifer's most significant recharge areas. The Aquifer Protection District overlays all other zoning districts.

8.2 ESTABLISHMENT AND DELINEATION OF AQUIFER PROTECTION DISTRICT

There is hereby established within the Town an Aquifer Protection District, consisting of aquifers and/or aquifer recharge areas. Aquifers and aquifer recharge areas are

defined by USGS standard geologic and hydrologic investigations which may include drilling observation wells, utilizing existing boring data and stratigraphic profiles, conducting seismic surveys or other geophysical techniques, performing pumping tests, water sampling and geologic mapping.

The boundaries of this District are delineated on a map at a scale of 1 inch to 1,000 feet entitled "Aquifer Protection District, Town of Westport" on file in the office of the Town Clerk. These boundaries reflect the best USGS hydro-geologic information available as of the date of the map.

8.3

USE REGULATIONS

8.3.1 The following uses, if allowed within the underlying District, are allowed within the Aquifer Protection District.

A. All primary uses permitted by the underlying District where the land is located, except those expressly prohibited under Section 8.3.2 or requiring a special permit under Section 8.3.3 below, and subject to the following:

- 1.** Pesticides and fertilizers shall not be stored in amounts exceeding what is necessary for household or business use on the premises for a period of twelve (12) months.
- 2.** Storage of home or business fuel intended to be consumed on-site for space heating, hot water heating and cooking purposes shall be in tanks not exceeding 660 gallons for residential use and 2,000 gallons for commercial use, whose design and installation is reviewed and approved by the Fire Department in accordance with applicable safety regulations, 527 CMR 9.0. Storage must be above ground, either in a freestanding container within a building or outdoors with protection adequate to contain a spill the size of the container's total storage capacity.

B. Existing non-conforming prohibited uses in

conformance with any applicable state and local regulations.

8.3.2 The following uses are prohibited within the Aquifer Protection District:

- A.** The manufacture, use, storage or disposal of toxic materials or hazardous wastes.
- B.** Car washes, laundromats, automotive service and repair facilities, sanitary landfills, dumps, junk yards, storage or disposal of solid waste. Sludge or septage may only be stored in compliance with 310 CMR 32.30 and 32.31.
- C.** Storage of animal manures, unless such storage is covered or contained, or in accordance with the specifications of the National Resource Conservation Service (NRCS).
- D.** Storage of commercial fertilizers as defined in M.G.L. c. 182, §64, unless such storage is within a structure designed to prevent the generation and escape of contaminated runoff or leachate.
- E.** The removal of soil, loam, sand, gravel or any other mineral substances within four (4) feet of the historical high groundwater table elevation (as determined from monitoring wells and historical water table fluctuation data compiled by the United States geological survey), unless the original substances removed are redeposited within forty-five (45) days of removal on site to achieve a final grading greater than four (4) feet above the historical high water mark and except for excavations for the construction of building foundations or the installation of utility works and roadway construction.
- F.** Impervious cover on any lot, including buildings, structures, driveways, parking areas, gravel areas, patios, storage areas or any other impermeable surfaces that exceed fifteen (15) per cent of land area or 2,500 square feet, whichever is greater, unless a

system for artificial recharge of precipitation is provided that will not result in the degradation of groundwater quality and exempting land primarily used for Agricultural or Horticultural purposes.

G. Sewage treatment facilities with the exception of:

1. Individual sewage disposal systems; and
2. Decentralized Innovative/Alternative (I/A) Treatment System(s) or Localized Enhanced Treat System(s), approved by the Westport Board of Health, that significantly reduce bacterial and nutrient discharge levels to the environment (as compared with conventional on-site septic systems).

(2009 ATM, Article 30)

H. Stockpiling and disposal of snow or ice removed from highways and streets located outside of the Aquifer Protection District that contains sodium chloride, calcium chloride, chemically treated abrasives or other chemicals used for snow and ice removal.

I. Truck or bus terminals.

J. Disposal of solid wastes with the exception of brush and stumps.

K. Storage of liquid hazardous materials, as defined in M.G.L. c.21E, unless such storage is either in a free standing container within a building or in a free standing covered container above ground level with protection adequate to contain a spill one and one half the size of the container's total storage capacity.

L. Storage of liquid petroleum products of any kind, except those incidental to normal household use and outdoor maintenance or the heating of a structure.

M. Industrial uses that discharge process

wastewater to the ground.

- N. Floor drainage systems discharging to the environment in any facility managing hazardous materials and wastes.
- O. Storage of road salt or deicing chemicals.

8.3.3 The uses set forth below are permitted within the Aquifer Protection District by **SPECIAL PERMIT** only, and are subject to the approval of the Granting Authority with such conditions as they may attach to their approval and subject to Section 8.3.2. The Special Permit Granting Authority shall be the Zoning Board of Appeals.

- A. All commercial and industrial activities permitted in the underlying district, after site plan review that demonstrates compliance with the requirements of this section:

All such commercial and industrial uses may be constructed and operated in such a manner as to discharge no wastewater except normal sanitary waste to subsurface disposal systems.

- B. Replacement, rehabilitation and modification of pre-existing non-conforming uses, in accordance with section 4.1 of Westport's Zoning By-Laws. The Special Permit Granting Authority shall not grant such approval unless it shall find that such expansion shall not increase the risk of contamination of groundwater.

8.4 SITE PLAN SUBMISSION REQUIREMENTS

A. General

Eight copies of a site plan including all of the information required below shall be submitted at a scale no smaller than one inch (1") equals forty feet (40'). The site plan shall have been prepared, stamped and signed by a registered professional engineer, registered land surveyor or registered architect for each pertinent design element.

B. Legal

1. Name and address of the applicant and authorization of the owner, if different from the applicant.
2. Name and address of the owner(s) of record, if different from the applicant.
3. Name and address of person and firm preparing the plan.
4. Assessor's plat and lot number.
5. Existing zoning classification of the property, including the location of any zoning district boundary. All setbacks shall be clearly shown on each parcel.
6. Real property boundary of the parcel. All distances, angles, and total parcel area to be shown. Tie lines shall be used, if necessary to provide closure.
7. North arrow, scale and date of plan preparation. Benchmark data to be referenced. Dates of field surveys and dates of revisions to the plan, including purpose of each revision, shall be shown.
8. Location, width and purpose of all existing easements, reservations, restricted development areas, and areas dedicated to public use within and adjoining the parcel.
9. Description of all existing deed restrictions or covenants applying to the property, and their depiction on the plan if they apply to less than the entire parcel.

C. Physical Features

1. Geologic features, such as depth to bedrock, rock outcrops, depth to groundwater.
2. Existing topography at a two-foot (2') contour interval.
3. Vegetative cover, including existing wooded areas, significant isolated trees, meadows, cultivated fields, orchards, vineyards and similar features. A recent aerial photograph at a scale no smaller

than the scale of the site plan may be submitted to illustrate these features, provided that the parcel boundaries are superimposed thereon.

4. USDA-NRCS (Natural Resources Conservation Service).
5. Wetlands, streams, drainage swales, waterbodies, shorelines with mean high water reference, flood hazard areas.
6. Location, right-of-way and pavement width and location, and name of existing streets, roads, or ways bounding or intersecting the parcel.
7. Location of all existing structures including stonewalls, culverts, and drain pipes on the parcel.
8. Location of all wells, water mains, and other underground utilities and storage facilities.
9. Location of all septic tanks and leaching fields with appurtenant approval references noted.
10. Location of all uses not requiring structures, including outdoor storage, vehicular or equipment parking or repair areas.

D. Proposed Development

1. Grading and drainage plan showing proposed topography at two-foot (2') intervals. This information may be combined with the map showing existing conditions if it can be clearly depicted.
2. Location and proposed use of buildings and other structures, such as retaining walls, fences, and outdoor storage tanks.
3. Location and arrangement of site access and egress, including all paths for pedestrian and vehicular travel within the site. Cross-sections and profiles shall be supplied as necessary.
4. Location and size of well, water lines, sewage lines including septic tanks and leaching fields.
5. Proposed alterations to any of the physical

- features shown in Section D, item 2 above.
6. Location of all proposed uses not requiring structures, as in Section D, item 2 above.
 7. Additional information or detail as the SPGA may deem necessary to review the plan.

8.5 PROCEDURES FOR ISSUANCE OF SPECIAL PERMIT

- 8.5.1 Each application for a special permit shall be filed with the Zoning Board of Appeals. The Zoning Board of Appeals shall transmit a copy of the application to the Planning Board, Conservation Commission, Board of Health and Fire Department, and request their comments and recommendations upon the application.
- 8.5.2 The Zoning Board of Appeals shall hold a hearing in conformity with the provisions of M.G.L. chapter 40A, § 9, within sixty-five (65) days after the filing of the application with the Zoning Board of Appeals. Notice of the Public Hearing shall be given by publication and posting and by first class mailing to "parties of interest" as defined in M.G.L. chapter 40A, § 11. The decision of the Zoning Board of Appeals and any extension, modification or renewal thereof shall be filed with the Town Clerk within thirty (30) days following the closing of the Public Hearing. Failure of the Zoning Board of Appeals to act within ninety (90) days after the application is filed shall be deemed as a Granting of the Permit.
- 8.5.3 The Special Permit Granting Authority shall grant a special permit only upon findings that (I) the proposed use does not pose an actual or potential threat of material damage to groundwater quality, and (ii) that all adverse impacts to groundwater and disturbance of natural vegetation have been avoided or minimized to the maximum extent reasonably practicable, giving due regard to the economic scope of the project, and the public benefits to be secured from the project.
- 8.5.4 The Special permit Granting Authority may impose reasonable restrictions and conditions upon an approval action to achieve maximum compliance with

this By-Law.

8.6 ENFORCEMENT OF THIS BY-LAW

Enforcement of this By-Law shall be by the Zoning Enforcement Officer of the Town.

8.7 RIGHT OF APPEAL

Any person aggrieved by a decision of the Board of Appeals may seek judicial review thereof in accordance with M.G.L. Chapter 40A, Section 17.

8.8 SEVERABILITY

A determination that any portion or provision of this Aquifer Protection District By-Law is invalid shall not invalidate any other portion or provision thereof. **NOTE: See Map in Back**

(1998 ATM, Article 63)

ARTICLE 9

TELECOMMUNICATIONS FACILITIES OVERLAY DISTRICT

9.0 Establishment of District

This section establishes a Telecommunication Facilities Overlay District in addition to the zoning districts described in Article 3 and other overlay districts described herein. The District is established as a special district, which may overlay any other zoning district. The provisions of this Article shall apply in addition to the requirements of the underlying zoning district.

9.1.1 Purpose

The telecommunications Facilities Overlay District is established for the purpose of permitting wireless communications towers and related facilities in specific areas of Westport, in order to minimize visual impacts from such towers and facilities on the Town's rural, residential and village areas.

9.1.2 Location

The Telecommunications Facilities Overlay District consists of all areas of the Town zoned as "Business" or "Unrestricted," and any other areas that may be added thereto by amendment to the Zoning Map duly adopted in accordance with law.

9.1.3 Use Regulations

Land within the Telecommunications Facilities Overlay District may be used for all the purposes permitted in the underlying zoning district, as modified by any other overlay district, and for telecommunications facilities subject to the provisions of Section 9.2. All development shall be subject to the regulations of the underlying zoning district, and of any applicable overlay district that are not specifically modified by the provisions of Section 9.2.

9.2 Telecommunications Facilities

9.2.1 General Provisions for Wireless Communications Facilities

9.2.1.1 Special Permit Requirement: Wireless communications towers and facilities (including antennas and accessory structures, if any) may be erected only in a Telecommunications Facilities Overlay District upon the issuance of a special permit with site plan approval by the Board of Appeals, subject to the condition herein.

9.2.1.2 Applicability: The provisions of this Section 9.2 (except Section 9.2.7) shall apply to any wireless communication tower or facility except the following:

- a.** An antenna structure used by a federally licensed amateur radio operator, provided that the (1) tower shall be set back from property lines a distance at least equal to its height, and (2) the tower must be removed if the use is discontinued for six months.

9.2.2. Standards for Towers

Construction of wireless communication towers shall be subject to all of the following conditions:

9.2.2.1 Only self-supporting towers shall be permitted. Guyed towers are specifically prohibited.

9.2.2.2 Tower height shall not exceed 190 feet above the existing terrain.

- 9.2.2.3 A tower shall not be erected nearer to any property line than a distance equal to the vertical height of the tower (inclusive of any appurtenant devices), measured at the mean finished grade of the tower base.
- 9.2.2.4 A tower shall be set back from any public way, except interstate highways, a distance at least equal to one and one-half times the vertical height of the tower, measured at the mean finished grade of the tower base.
- 9.2.2.5 Towers shall be designed to accommodate facilities for at least three separate carriers, and the owners shall allow co-location by such carriers, on terms and conditions prevailing in the market place.
- 9.2.2.6 Towers shall not include facilities for microwave transmission.
- 9.2.2.7 All network interconnections from the communications lot shall be via landlines.
- 9.2.2.8 One telecommunications facility accessory building, not to exceed in the aggregate 300 square feet gross floor area per carrier may be constructed, provided that the building is similar in architectural style and materials to other structures in the neighborhood.
- 9.2.2.9 Any electrical generators shall be shielded so as to prevent unreasonable noise impacts on neighboring properties.
- 9.2.2.10 Tower lighting shall not be permitted. If the FAA would require lighting of proposed tower because of its height, the height should be reduced to eliminate the need for lighting.
- 9.2.2.11 Existing on-site vegetation shall be preserved to the maximum extent practicable.

9.2.3 **Special Permit Procedures**

9.2.3.1 **Submittal Requirements**

An application for a permit for a

wireless communications tower or other exterior wireless communications facility shall include seven copies of a site plan prepared by a professional engineer or land surveyor registered to do business in the Commonwealth of Massachusetts, which shall show the following at minimum:

- a. Ownership, zoning, use, the general location of structures and topography within two hundred feet of the property line of the lot; and
- b. All major site features; including:
 - i. Driveways, including widths;
 - ii. Parking areas;
 - iii. Street line, including widths;
 - iv. Roadways, including widths;
 - v. Pedestrian walks, including widths;
 - vi. Wetlands;
 - vii. Drainage, including detail design data, pipe sizing, etc.; and
 - viii. Stone walls.

The applicant shall also describe the capacity of the tower, including the number and types of antennas that it can accommodate and the basis for the calculation of capacity, and any accessory structures.

9.2.3.2 Required Findings: The Board of Appeals may grant a special permit for a tower only if it makes all of the following findings:

- a. Existing or approved towers available for use by the applicant cannot accommodate the wireless communications equipment planned for the proposed tower.

- b. The design of the tower and supporting facilities will minimize adverse visual effects on the environment to the extent feasible.
- c. Traffic associated with the tower and accessory facilities and structures shall not adversely affect abutting ways.

9.2.3.3 Conditions: The Board of Appeals may impose reasonable conditions on a special permit granted under this section, including fencing requirements and painting and lighting standards.

9.2.4 Modification of Approved Facility

9.2.4.1 Additional antennas and equipment may be added to a facility that has received a special permit under this section, unless specifically prohibited in the special permit decision. The Zoning Enforcement Officer must be notified at least 30 days prior to any such modification.

9.2.4.2 Any modifications to approved facilities must be consistent with the requirements of this Section 9.2.

9.2.5 Non-Use

Any wireless communications tower, facility or accessory structure, which has not been used for two years shall be dismantled and removed at the owner's expense.

(1998 ATM, Article 65; 2001 ATM, Article 50)

ARTICLE 10

PHASED DEVELOPMENT

10.0 PHASED DEVELOPMENT

10.1 PURPOSE

The purpose of this section is to promote orderly growth in the Town of Westport; to preserve the water quality of the Westport River watershed; to phase growth so that it will not unduly strain the community's ability to provide basic education, public facilities and services; to provide the

town, it's boards and agencies information, time and capacity to incorporate such growth into the Master Plan and the town's budget, and to preserve and enhance existing community character and the value of property.

10.2 APPLICABILITY AND EXEMPTIONS

This section 10 regulates the rate at which building permits may be issued for land that is the subject of a plan submitted to the Planning Board after the date of enactment hereof by Town Meeting, either for approval under the subdivision control law, or for endorsement "approval not required" under M.G.L. c.41, Section 81P. This section shall not apply to any plan for which an application for such approval or endorsement was filed with the Planning Board before the date of enactment, nor to any definitive plan filed after enactment hereof, if the land shown thereon was included in a preliminary plan filed under M.G.L. c.41, Section 81S before the date of the enactment, provided that application for approval of such definitive plan is filed within seven months of the date that such preliminary plan was filed.

10.3 DEVELOPMENT SCHEDULE

In any calendar year, the Building Inspector shall not issue a permit for the construction for any lot created by a plan that is subject to this section 10, if the aggregate number of permits issued for lots shown on the plan, when combined with permits issued in previous calendar years, exceeds the totals set forth below.

Year	Maximum Total Permits
Year of endorsement of plan	Greater of 2 lots or 20% of total lots on plan
2nd year after endorsement	Greater of 4 lots or 40% of total lots on plan
3rd year after endorsement	Greater of 6 lots or 60% of total lots on plan
4th year after endorsement	Greater of 8 lots or 80% of total lots on plan
5th year after endorsement	No limit

For the purpose of calculations hereunder, all fractional totals shall be rounded upward.

10.4 MULTIPLE SUBDIVISIONS FROM SINGLE PARCEL

The Building Inspector will, for the purpose of calculations under this By-Law, aggregate all lots created from two or more plans of land if all the lots shown on such plans were divided from a single, contiguous parcel of land that was in one-ownership or under the control of one entity on the date of enactment of this By-Law.

(2005 ATM, Article 25)

10.5 PERIOD OF PHASED DEVELOPMENT

The provisions of this By-Law shall apply to all lots created through the division of land for the period of eight (8) years from and after the effective date of this By-Law.

(2000 ATM, Article 49)

10.6 AFFORDABLE UNITS

Affordable Units, as defined in Article 1.1, and units in Assisted and/or Independent Living Facilities shall be exempt from the phased development schedule.

(2005 ATM, Article 25)

ARTICLE 11

ASSISTED AND INDEPENDENT LIVING FACILITIES

11.0 ASSISTED AND INDEPENDENT LIVING FACILITIES

11.1 PURPOSE

The purpose of this Assisted and Independent Living Facility By-Law is to provide a mechanism for the approval of:

11.1.1 Assisted Living Facilities (ALFs) within a residential environment that offers supportive services to individuals who are unable to live independently in the community by offering supervision and/or assistance with basic activities of daily life, such as, but not limited to, dressing, bathing, toileting, and nutrition; and

11.1.2 Independent Living Facilities (ILFs) that offer congregate living arrangements to persons over the age of fifty-five;

11.1.3 The development of ALFs and ILFs in a manner that conserves environmental features, woodlands, wet areas, open space, areas of scenic beauty, views and vistas as well as encouraging the renovation and rehabilitation of older, existing buildings; and

11.1.4 The development of ALFs and ILFs in a manner that

is harmonious with the surrounding land uses while protecting natural resources and open space.

11.2 **DEFINITIONS**

Within this Section, the following terms shall have the following meanings:

Bedroom: A separate room intended for, or which customarily could be used for sleeping.

Dwelling Unit: A residence, including studio units. Each residence shall contain a living area, bathroom and, except in studio units, one or more bedrooms, and may contain a kitchen area or combination kitchen/living area.

Land: Land, including areas covered by water.

Subdivision Regulations: The rules and regulations of the Planning Board relative to subdivisions.

Wetlands: Lands subject to the provisions of M.G.L. c. 131, ss.40 and 40A.

11.3 **USE RESTRICTIONS**

An ALF and/or an ILF may be constructed, subject to the requirements set forth herein, upon the issuance of a special permit by the Planning Board.

11.3.1 Area, setback, height, frontage, and density requirements for ALFs and ILFs are set forth in Section 7.2.1.

11.3.2 No other use or structures shall be permitted, except as specifically provided herein.

11.3.3 An ALF or an ILF may consist of a single building or multiple buildings.

11.3.4 Structures and uses accessory to the ALF or ILF may also be provided within the same building, including, but not limited to, the following: beauty and barber salons; recreational, physical fitness and therapy services; nondenominational chapel; library; bank automated teller machine; management offices; adult day care or adult health care facility; hospice residence; food service; laundry and covered parking areas; provided, however, that such accessory uses and structures

shall be designed for the primary use of the residents and staff of the ALF or ILF. Such accessory uses may not be designed for or used as a general business by the general public. Such accessory uses shall be wholly within a structure containing residential units, and shall have no exterior advertising display.

11.3.5 The facility shall be served by municipal water and/or sewer systems unless the applicant can provide on-site water supply and sewage treatment.

11.4 An application for special permit shall be on forms furnished by the Planning Board and accompanied by a special permit filing fee determined by the Planning Board. The Planning Board may waive the submittal of technical information or documents otherwise required hereunder where the applicant demonstrates that, due to the simplicity of the proposal, such information is not necessary for or applicable to the Planning Board's decision pursuant to this section. Unless so waived, an application for a special permit shall consist of the following:

11.4.1 The following plans:

11.4.1.1 A plan at a scale of 1" = 40', or other scale acceptable to the Planning Board, showing existing conditions, including: the topography of the site at a minimum of two foot intervals; vegetation and unique features, including wetlands, perennial streams and ponds, trees of more than 8" caliper, stone walls, and rock outcroppings; slopes in excess of 15%; existing trails, paths and ways; open vistas; structures of historical importance; wildlife habitats, and existing easements and restricted areas;

11.4.1.2 A plan depicting the horizontal layout of the site, including types, location and layout of buildings, parking areas, vehicular and pedestrian circulation, stormwater facilities, lighting, signage, trash disposal areas, loading areas, etc.

11.4.1.3 Elevation drawings of buildings and other major structures;

- 11.4.1.4 A grading plan depicting stormwater management provisions;
- 11.4.1.5 A landscape plan with planting schedule showing types, number and characteristics of proposed plantings;
- 11.4.1.6 Detail drawings of drainage structures, signage, lighting, tree plantings, and other site features, as necessary.
- 11.4.1.7 Perspective drawings or 3-D models may be subsequently required by the Planning Board;
- 11.4.1.8 The Planning Board may describe the required content of the above plans in greater detail in regulations promulgated under this By-Law.

11.4.2 The following narrative reports or data:

- 11.4.2.1 A proposed development schedule showing the beginning of construction, the rate of construction and development, including stages, if applicable, and the estimated date of completion;
- 11.4.2.2 A development impact statement prepared impact of the development on the Town's capacity to furnish services including, but not limited to, roads, police, fire, emergency services, water and sewage treatment;
- 11.4.2.3 Information pertaining to any organization which the Applicant proposes to form where the development is to be a condominium development, including forms and plans to be used to organize and manage the same, for approval as to form by Town Counsel;
- 11.4.2.4 Copies of all proposed covenants, easements, and other restrictions which the Applicant proposes to grant to the Town, the Conservation Commission, utility companies, any condominium

organization and the owners thereof, including plans of land to which they are intended to apply, for approval as to form by Town Counsel;

11.4.2.5 A stormwater management plan complying with all local, state, and federal requirements, including drainage calculations, erosion and sedimentation control provisions during and after construction, and on-going maintenance plan.

11.4.2.6 Any and all other information that the Planning Board may reasonably require in an acceptable form to assist in determining whether the Applicant's proposed development plan meets the objectives of this Section.

11.4.2.7 The Planning Board may describe the required content of the above plans in greater detail in regulations promulgated under this By-Law.

11.4.3 Each such application shall be accompanied, if applicable, by a definitive plan of land pursuant to the provisions of Massachusetts General Law Chapter 41, sections 81-0 and 81-T, as the same may be from time to time amended and the Subdivision Regulations as well as a filing fee determined in accordance with the Subdivision Regulations. Approval of a special permit under this section shall not substitute for compliance with Subdivision Control Law, G. L. c. 41, ss81k et seq. A definitive subdivision plan submitted in connection with an approved special permit for an ALF or ILF shall substantially conform with plans upon which the special permit approval was based.

11.5 STANDARDS

In order to be eligible for consideration for a special permit pursuant to this Section, the proposed development shall meet all of the following standards:

11.5.1 Affordability

At least fifteen percent (15%) of the total number

of dwelling units in an Independent Living Facility (ILF), which proposes more than ten units shall meet the definition of Affordable Units as defined in Article 1, Section 1.1 of the Westport Zoning By-Law. These affordable units shall be marketed and administered through the Westport Housing Authority with resale restrictions to assure continued affordability. Dwelling units reserved for occupancy by persons or families of low to moderate income, or for occupancy by a single individual, shall not be segregated from market rate or larger dwelling units in the development.

11.5.2 Open Space Requirement for ALFs and ILFs:

In the Residence/Agriculture districts a minimum of fifty (50) percent of the parcel shown on the Development Plan shall be contiguous open space. In the Business districts a minimum of thirty (30) percent of the parcel shown on the Development Plan shall be contiguous open space. Such open space may be separated by road(s) constructed within the development. Said contiguous open space shall have at any point the minimum width of 125 feet.

The required open space shall be used for conservation, historic preservation and education, outdoor education, park purposes, existing agriculture, existing horticulture, forestry, or for a combination of these uses, and shall be served by suitable access for such purposes.

The required open space shall remain unbuilt upon, provided that five percent (5%) of such open space may be paved or built upon for structures accessory to the dedicated use or uses of such open space, community center, pedestrian walks, bike paths, and existing agriculture.

The required open space shall be conveyed in conformance to the requirements provided in the Subdivision Regulations.

Any proposed open space, unless conveyed to the Town or its Conservation Commission, shall be subject to a recorded restriction enforceable by the Town, providing that such land shall be

perpetually kept in an open state, that it shall be preserved for exclusively existing agricultural, horticultural, educational or recreational purposes, and that it shall be maintained in a manner which will ensure its suitability for its intended purposes.

11.5.3 Buffer Areas and Building Setbacks

All dwellings and structures shall be located a minimum of sixty (60) feet from adjacent properties, and eighty (80) feet from adjacent surface waters or wetlands. All buildings shall be set back a minimum of 100 feet from the street except that, in the Business District this setback requirement may be modified at the discretion of the Planning Board. Buffer areas shall be retained in their natural vegetative state to the maximum extent feasible, where the 60 foot buffer of natural vegetation is not adequate (in the Planning Board's opinion) to screen the development from adjacent properties the Board may require additional plantings, earthen berms and/or fencing.

The Planning Board may waive the buffer requirement (i) where the land abutting the site is the subject of a permanent restriction for conservation or recreation so long as a buffer is established of at least fifty (50') feet in depth which may include such restricted land area within such buffer area calculation; or (ii) where the land abutting the site is held by the Town for conservation or recreation purposes; or (iii) the site is a mixed-use area or a downtown area where providing a buffer is infeasible or is inconsistent with the Town's planning goals for the area; or (iv) the Planning Board determines that a smaller buffer will suffice to accomplish the objectives set forth herein.

11.5.4 Removal and Replacement of Vegetation

Within the site, no clear cutting shall be permitted, except incidental to construction of buildings, roads, trails and parking areas.

11.5.5 Roadways

The principal roadway(s) serving the site shall be designed to conform with the standards of the Subdivision Regulations as they apply to Residential Streets, or the roadways may be designed to comply with the Town's Secondary Road construction standards, but must be paved with asphalt. Gravel paving or any other non-asphaltic material may not be used as a finished pavement.

11.5.6 Parking

Notwithstanding any other provisions in this By-Law to the contrary, the applicant shall provide adequate parking to serve all anticipated uses on the property, and shall provide information detailing the method of computation of parking spaces. The minimum number of parking spaces provided on the site shall be 0.3 parking space per dwelling unit in an ALF and 1.0 parking space per dwelling unit in an ILF. For both ALFs and ILFs one (1) additional parking space shall be provided for every three (3) employees during the largest shift. The Planning Board may increase the required parking by up to 10% to serve the needs of employees, visitors and service vehicles. All parking areas shall be screened from view from adjacent residentially zoned or occupied premises located outside the site, including public ways, by a landscaped border at least ten (10) feet in width. Parking lots in front setbacks in residential zones, and in buffer areas in all zones, with the exception of necessary access driveways, are prohibited. Parking areas in residential districts shall be located to the side or rear of all buildings. Parking lot layout shall be planned to permit landscaping, buffering, or screening to prevent direct views of parked vehicles from adjacent streets. The use of traditional picket fencing, hedges, walls, or landscape berms to define parking areas is encouraged. In parking areas of eleven or more parking stalls, at least one tree of three inch or greater caliper shall be planted for every six parking places. Adequate tree wells and irrigation shall be provided for all parking lot landscaping. Pedestrian access is to be taken into consideration in parking lot design. The use of separate walkways is encouraged.

11.5.7 Loading

Loading areas, if required, must be at least 20 X 9 feet, and have a minimum overhead clearance of 10 feet. Screening and landscaping shall be provided to block all views of loading areas (except those specifically designated for emergency vehicles) from the public right-of-way and adjacent properties.

11.5.8 Stormwater Management

Drainage provisions shall be provided to ensure compliance with all local, state and federal requirements regarding stormwater management including; Article 20, Low Impact Development and the Board of Health's Stormwater Quality and Quantity Control Regulations dated April 15, 2009 effective on August 1, 2009 or as amended and shall be subject to review by the Planning Board's engineering consultant at the expense of the applicant. Drainage shall be designed so that the rate of run-off shall not be increased, groundwater recharge is maximized, surface and ground water quality is maintained or improved, and neighboring properties will not be adversely affected. The Board may require that existing drainage problems on/or adjacent to the site be mitigated as a condition of approval of the special permit under this section. Drainage facilities shall not be allowed in the required open space areas.

(2011 ATM, Article 39)

11.5.9 Utilities

All electric, gas, telephone, water distribution lines, and other utilities shall be placed underground except upon a demonstration of exceptional circumstances.

11.5.10 Paths

Paths for the use of residents shall be attractively designed with proper regard for convenience, separation of vehicular, bicycle and pedestrian traffic, adequate connectivity, completeness of access to the various amenities

and facilities on the site and to pathways on adjacent sites.

11.5.11 Paving and Curbing

Curbing is to be sloped or cut to provide a barrier free transition at road crossings and building entrances. Paving should be textured or of different materials at pedestrian crossings and walkways. The use of stone, brick or cultured stone pavers for entrance walkway borders is encouraged. The use of textured materials for walkway borders is encouraged.

11.5.12 Design and Architectural Character

Architectural style shall be in harmony with the historical design elements that are contextually consistent with regional New England architecture.

11.5.13 ALF or ILF shall have an integrated emergency call, Telephone and other communications system to provide monitoring for its residents. There shall be sufficient site access for public safety vehicles. A plan shall be approved by the Fire Department for the emergency evacuation of the residents with emphasis on ensuring the safety of residents with physical impairments.

11.5.14 No building/structure shall be floodlit. Drives, walkways, entryways, and parking areas shall not be illuminated by lights higher than fifteen (15) feet, which shall be shielded to have a total cutoff of all light at less than ninety (90) degrees and a beam cutoff less than seventy-five (75) degrees. The total cutoff of all light shall occur within the property lines of the parcel to be developed.

11.5.15 In order to be eligible for consideration for a Special Permit pursuant to this section, the ALF or ILF shall comply with all Federal and State access requirements.

11.6 INCENTIVES FOR CONVERSION OF STRUCTURES

It is the intent of this subsection to encourage the appropriate reuse of land and buildings that are no longer needed or suitable for their original use. Such building

conversions shall:

- 11.6.1 Be compatible with the character of the neighborhood; and
- 11.6.2 Minimize removal or disruption of historic existing building features or architectural elements, whether these exist on the site or on adjacent properties.
- 11.6.3 Notwithstanding other sections of this bylaw, the buffer requirements, minimum open space requirements, and building height requirements for the ALF or ILF shall be those physically existing on the ground as of the date of enactment of this bylaw.
- 11.6.4 The Planning Board may permit expansion of the structure to the degree reasonably necessary to construct entryways and features to comply with Federal and State access requirements and fire escape and fire protection features.

11.7 **ACTION BY THE PLANNING BOARD**

The Planning Board may approve, approve with conditions, or deny an application for an ALF or an application for an ILF, after assessing whether the proposed development complies with the requirements of this By-Law and serves the purpose of the By-Law as expressed in section 11.1.

11.8 **RELATION TO OTHER REQUIREMENTS**

The submittals and permits of this section shall be in addition to any other requirements of the Subdivision Control Law or any other provisions of this Zoning By-Law.

11.9 **SEVERABILITY.**

A determination that any portion or provision of this Assisted and Independent Living Facilities By-Law is invalid shall not invalidate any other portion or provision thereof.

(2004 ATM, Article 15)

ARTICLE 12

BUILDING PERMIT LIMITATIONS (Proposed Article Did Not Pass Town Meeting)

ARTICLE 13

INCLUSIONARY HOUSING

13.0 INCLUSIONARY HOUSING

13.1 PURPOSE AND INTENT

The purpose of this By-Law is to outline and implement a coherent set of policies and objectives for the development of affordable housing in compliance with the Town of Westport Master Plan, The Westport Planned Production Plan, or any superceding Westport Housing Production Plan and MGL c.40B sec. 20-23, and in tandem with on-going Town of Westport programs to promote a reasonable percentage of housing that is affordable to low and moderate-income households. It is intended that the affordable housing units that result from a special permit issued under this By-Law be considered as Local Initiative Program (LIP) dwelling units in compliance with the requirements for the same as specified by the Massachusetts Department of Housing and Community Development (DHCD) and that said units count toward the Town's requirements under MGL c.40B, sec 20-23. It is intended that this By-Law provide a mechanism to compensate for those decreases in the town's percentage of affordable housing that are directly caused by increases in the Town's overall housing stock.

13.2 DEFINITIONS

13.2.1 Division of Land: This By-Law shall apply to the division of land held in single ownership as of June 1, 2005 or anytime thereafter into ten (10) or more lots, whether said ten (10) or more lots are created at one time or are the accumulation of ten (10) or more lots created from said land held in single ownership as of June 1, 2005. This By-Law shall apply to Town of Westport Open Space Residential Development, "conventional" or "grid" divisions allowed by M.G.L. Chapter 41, Section 81-L and Section 81-U, as well as those divisions of land that do not require subdivision approval per G.L. c. 41, §81P.

13.2.2 Multi-Family Dwelling Units and Duplexes: This By-Law shall apply to the construction of ten (10) or more multi-family dwelling units or duplexes, whether on one

or more contiguous parcels in existence as of June 1, 2005.

- 13.2.3** **Exemption:** The provisions of Article 13.3 hereof shall not apply to the construction of ten (10) or more single-family dwelling units on individual lots, if said ten (10) or more lots were in existence prior to June 1, 2005 nor to Assisted and Independent Living Facilities.

(2011 ATM, Article 41)

- 13.2.4** **Administration:** The Planning Board shall be the Special Permit Granting Authority (SPGA) for all special permits under this By-Law.

13.3 **MANDATORY PROVISION OF AFFORDABLE UNITS**

The SPGA shall, as a condition of approval of any development referred to in Article 13.2, require that the applicant for special permit approval comply with the obligation to provide affordable housing pursuant to this By-Law and more fully described in Article 13.4. Any special permit granted hereunder shall contain a condition that a regulatory agreement, executed by DHCD, the Town of Westport, and the applicant is recorded at the Registry of Deeds and a copy provided to the Inspector of Buildings and the Planning Board prior to issuance of a building permit, except as provided through special permit in accordance with Article 13.5.

13.4 **PROVISION OF AFFORDABLE UNITS**

The SPGA shall grant any application for a special permit if the application satisfies the following minimum affordable housing requirements:

- 13.4.1** At least 10% of the units in any residential development and any division of land subject to this By-Law shall be established as affordable housing units. Fractions of a lot or dwelling unit shall be rounded up to the nearest whole number, such that a development proposing ten (10) dwelling units shall require one affordable unit, a development proposing eleven (11) dwelling units shall require two (2) affordable units, and so on, except as provided through Article 13.5.
- 13.4.2** The affordable unit(s) shall be constructed or rehabilitated on the locus property, except as provided through Article 13.5.

13.5

ALTERNATIVES AND INCENTIVES

The SPGA is authorized, by grant of a Special Permit, to allow the following alternatives and incentives to the provisions of 13.3 and 13.4.

13.5.1 Off-Site Alternative: An applicant subject to this By-Law may develop, construct or otherwise provide affordable units equivalent to those required by Article 13.5 off-site. All requirements of this By-Law that apply to on-site provision of affordable units, shall apply to provision of off-site affordable units. In addition, the location and design of the off-site units to be provided shall be approved by the Special Permit Granting Authority as an integral element of the special permit review and approval process.

13.5.2 Cash Contribution: As an alternative to the requirements of Article 13.5, and as allowed by law, an applicant may contribute funds to the Westport Affordable Housing Trust Fund to be used for the creation of affordable housing in lieu of construction and offering affordable units within the locus of the proposed development. For the purposes of this Bylaw, the cash payment per affordable unit required shall be equal to the difference between the median single-family home sales price in Westport for the most recent calendar year as determined by the SPGA and the price affordable to a qualified purchaser as determined by the SPGA, based on applicable guidelines of the DHCD, Local Initiative Program (LIP). Where the calculation of affordable units results in fractional units, a cash payment may be made as provided in this section on a pro rata basis. The cash payment formula and timetable may be adjusted by the SPGA from time to time through the issuance of guidelines or regulations. If the SPGA issues a Special Permit to authorize a cash payment in lieu of units and the Board of Trustees of the Westport Affordable Housing Trust Fund votes to accept said contributions, the payment shall be paid to the Westport Affordable Housing Trust Fund prior to the issuance of any building permits for the development or prior to the sale

of any lots, if applicable. Alternatively, the SPGA may allow payment of said contributions according to a specified timetable in proportion to the rate of development or sale of lots. This cash contribution alternative shall apply only to homeownership developments and division of land and shall not apply to rental developments.

13.5.3 Donations of Land: An applicant may offer, and the Board of Trustees of the Westport Affordable Housing Trust Fund (Trustees) with the approval of the SPGA, may accept donations of land in fee simple, on or off-site, that the SPGA and Trustees determine are suitable for the construction of an equivalent number of affordable housing units. The SPGA may require the applicant to submit an appraisal or other data relevant to the determination of suitability for an equivalent number of affordable housing units. If the SPGA issues a Special Permit to authorize donations of land in lieu of units and the Board of Trustees of the Westport Affordable Housing Trust Fund votes to accept said donations, the donation shall be made to the Westport Affordable Housing Trust Fund prior to the issuance of any building permits for the development or prior to the sale of any lots, if applicable.

13.5.4 Combination of Alternatives: The applicant may offer, and the SPGA may approve the acceptance of, any combination of the alternatives provided in sections 13.6.1-13.6.3 provided that in no event shall the net result of the combination provided be less than the equivalent number or value of affordable units required by this By-Law.

13.5.5 Density Bonus: The SPGA may allow the addition of two market rate units for each affordable unit provided as part of compliance with this By-Law, provided that the expanded development complies with the open space requirements, design standards, and all other provisions of Article 18 Open Space Residential Development of the Westport Zoning By-Law. In addition, a development that exceeds the minimum affordable housing requirements of this By-Law may receive the same

density bonus benefits; however the net increase in housing units as a result of this By-Law and Article 18 shall not exceed fifty percent (50%) of the original property yield before any density bonuses were applied.

13.6 **PROVISIONS APPLICABLE TO AFFORDABLE HOUSING UNITS ON OR OFF-SITE**

13.6.1 Siting of affordable units: All affordable units constructed or rehabilitated under this By-Law shall be situated so as not to be in less desirable locations than market-rate units in the development and shall, on average, be no less accessible to public amenities, such as open space, as the market-rate units.

13.6.2 Minimum design and construction standards for affordable units: Affordable housing units within market-rate developments shall be integrated with the rest of the development and shall be compatible in design, appearance, construction and quality of materials with other units.

13.6.3 Timing of construction or provision of affordable units or lots: The Special Permit Granting Authority shall impose conditions on the special permit requiring construction of affordable housing according to a specified time table, so that affordable housing units, whether on the locus property or off site, shall be provided coincident to the development of market-rate units, but in no event shall the development of affordable units be delayed beyond the schedule noted below:

<u>Market-Rate Units</u>	<u>Affordable Housing Units</u>
Up to 30%	At least one unit
30% plus 1 unit	At least 10%
Up to 50%	At least 30%
Up to 75%	At least 50%
75% plus 1 unit	At least 70%
UP to 90%	100%
*Any fractions of an affordable unit shall be rounded up to a whole unit.	

13.7 **LOCAL PREFERENCE**

To the extent permitted by law, the SPGA may require the applicant to comply with local preference requirements, if any, as may be established by regulations promulgated hereunder.

13.8 MARKETING PLAN FOR AFFORDABLE UNITS

Applicants under this By-Law shall submit a marketing plan (or other method approved by the SPGA) to the SPGA and DHCD, which describes how the affordable units will be marketed to potential homebuyers/tenants. If applicable, this plan shall include a description of the lottery or other process to be used for selecting buyers/tenants. The plan shall be in conformance to any applicable guidelines issues by DHCD, and shall be subject to the prior review and approval of Town Counsel at the applicant's expense.

13.9 PRESERVATION OF AFFORDABILITY; RESTRICTIONS ON RESALE

Each affordable unit created in accordance with this By-Law shall be subject to a deed restriction in form and substance acceptable in to Town Counsel and the Massachusetts Department of Housing and Community Development ("DHCD"). The deed restriction shall run with the land in perpetuity or for the longest period of time allowed by law unless the SPGA determines that a shorter period of affordability will facilitate the development of affordable housing. The deed restriction shall limit the resale price of any ownership units or, in the case of rental property ensure the continued availability of affordable rental units, consistent with the regulations and guidelines issued from time to time by DHCD. Prior to the issuance of any occupancy permits for affordable or market rate units, the deed restriction(s) for each affordable unit constructed in accordance with the provisions of 13.6.3 shall be recorded at the Bristol County (S.D.) Registry of Deeds or Registry District of the Land Court. The deed restriction shall survive any bankruptcy or foreclosure.

13.10 REGULATIONS

The Special Permit Granting Authority shall adopt regulations for the orderly administration of this By-Law.

13.11 EXPIRATION

Any special permit issued pursuant to this Article shall be

recorded with the Registry of Deeds or Registry District of the Land Court. A special permit shall lapse within two years from the date of issuance, not including time required for appeals or challenges pursued under G. L. c. 40A Section 17, if substantial use has not been made or if construction has not begun within that time period except for good cause.

13.12 SEVERABILITY

If any portion of this By-Law is declared to be invalid, the remainder shall continue to be in full force and effect.
(2005 ATM, Article 24, 2010 ATM, Article 37)

(Editorial Note): Article 37 of the 2010 ATM deleted Article 13 in its entirety and replaced it with the above language.

ARTICLE 14

DRIVE-THROUGH FACILITIES

14.0 DRIVE-THROUGH FACILITIES

14.1 PURPOSE:

The purpose of this By-Law is to enhance the public health, safety, convenience and welfare by providing detailed review of the design and layout of drive-through facilities, which have a substantial impact upon the character and environment of the Town and upon traffic, utilities and services therein.

14.2 POWERS AND ADMINISTRATION:

The Planning Board is hereby designated the Special Permit Granting Authority (SPGA) for Drive-Through Facilities. The SPGA shall, after a public hearing, adopt regulations relative to the issuance of special permits for Drive-Through Facilities, including submission requirements, design standards and BMPs. After holding a public hearing, the SPGA may establish administrative and review fees.

After notice and public hearing as required by M.G.L. Chapter 40A, Section 9, and review of the site plan and accompanying submissions required by its regulations (to be adopted hereunder), the SPGA may grant the special permit, deny the special permit, or grant the special permit with conditions appropriate to serving the purposes of this section.

DEFINITIONS:

As used in this By-Law section and any regulations adopted by the Planning Board under this By-Law, the following words shall have the meanings specified herein as follows:

Access: A way or means of approach to provide vehicular or pedestrian access to a property.

Access Connection: Any driveway, street, curb cut, turnout or other means of providing for the movement of vehicles to or from the public/private roadway network.

Best Management Practice (BMP): For the purposes of stormwater management, structural or nonstructural and managerial techniques that are recognized to be the most effective and practical means to prevent or reduce non-point source pollution from entering receiving waters.

Cross Access: A service drive providing vehicular access between two or more contiguous sites so that the driver need not enter the public street system.

Drive-Through Facility: A commercial facility that provides a service or delivers a product directly to a motor vehicle (including, but not limited to, quick lube facilities and drive-through car washes); or to the occupants of the vehicle, without requiring them to leave the vehicle (including, but not limited to fast food restaurants and drive-through automatic teller machines). This definition does not include the selling of fuel at a gasoline filling station or the accessory functions of a car wash facility such as vacuum cleaning stations.

Driveway/Curb Cut Spacing: The distance between access connections, as measured from the closest edge of pavement along the public/private roadway.

Fast Food Restaurant: Any restaurant serving the majority of its food in disposable containers, packages, or other similar wrapping, for consumption on or off the premises.

Joint Access (or Shared Access): A driveway or other Access Connection connecting two or more contiguous lots to the public/private street system.

Lot, Corner: Any lot having at least two (2) contiguous sides abutting upon one or more streets, provided that the interior angle at the intersection of such two sides is less than one hundred thirty-five (135) degrees.

14.4 APPLICABILITY:

The provisions of this By-Law shall apply to all new drive-through facilities, whether such drive-through is the principal use on the lot or a use that is accessory to another use on the lot and to any existing drive-through facility undergoing alteration or reconstruction which substantially changes its location, footprint, access connection, or service capacity.

14.5 EXEMPTIONS:

The provisions of this By-Law do not apply to businesses such as take-out restaurants that require the vehicle occupant(s) to leave their vehicle and to walk to a take-out window or counter for service.

14.6 DIMENSIONAL AND INTENSITY REGULATIONS:

14.6.1 Drive-Through Facilities shall only be permitted on lots which meet the minimum standards for non-residential lots pertaining to lot area and contiguous upland area contained in Section 7.4 of these By-Laws and which have a minimum lot frontage of 250 feet, and a minimum lot depth of 200 feet.

14.6.2 Driveway/Curb Cut Spacing: Separation between access connections on all collectors and arterials shall be based on the posted speed limit in accordance with the following table:

<u>Posted Speed Limit (MPH)</u>	<u>Access Connection Spacing (Feet)</u>
20	85
25	105
30	125
35	150
40	185
45	230
50	275

14.7 PARKING SPACE REQUIREMENTS:

Developments that provide joint (shared) access or cross access drives between properties may be allowed a 10% reduction in the required number of parking spaces. If the applicant demonstrates to the satisfaction of the Special Permit Granting Authority (SPGA) that the periods of peak parking demand for developments with shared parking and joint

or cross access are not simultaneous, the SPGA may reduce the number of required parking spaces by 20%.

14.8 SEVERABILITY:

Should any section or provision of this By-Law be held invalid, it shall not affect the validity of the remainder of the Westport Zoning By-Laws.

(2005 ATM, Article 30)

ARTICLE 15

SITE PLAN APPROVAL

15.0 PURPOSE

The purpose of Site Plan Approval is to protect the health, safety, convenience, property values, and general welfare of the inhabitants of the Town of Westport by providing for review of plans for uses and structures which may have significant impacts on traffic; municipal and public services and utilities; environmental and design quality; and community character.

15.1 POWERS AND ADMINISTRATIVE PROCEDURE

All applications for Site Plan Approval shall be submitted to the Planning Board prior to the issuance of a building permit. In exercising its jurisdiction under this section, the Planning Board shall, unless otherwise provided, follow the procedural requirements for special permits as set forth in Section 9 of M.G.L. Chapter 40A; however, a motion to approve, approve with conditions, or disapprove a Site Plan shall require only a majority vote of the members present. The Board shall adopt Rules and Regulations relative to Site Plan Approval, a copy of which shall be filed with the Town Clerk. After notice and public hearing and after due consideration of the reports and recommendations of outside consultants and other town boards, commissions and/or departments, the Planning Board may approve a Site Plan. The Planning Board may impose, in addition to any applicable conditions specified in this section, such conditions as reasonably appropriate to improve the site design and/or mitigate the impacts of the proposed development. Such conditions shall be imposed in writing; the applicant may be required to post a bond or other surety for compliance with

said conditions in an amount satisfactory to the Planning Board.

15.2 APPLICABILITY

For specific uses requiring Site Plan Approval, see the Table of Use Regulations. The following types of activities and uses require Site Plan Approval by the Planning Board:

1. Construction with a gross floor area (GFA) of over 1,000 square feet of a municipal, institutional, commercial, or industrial building, or a multi-family building with three or more dwelling units;
2. Exterior expansion by more than 1,000 square feet GFA of a municipal, institutional, commercial, or industrial building, or a multi-family building with three or more dwelling units;
3. Change of use within a municipal, institutional, commercial, or industrial building, or a multi-family building with three or more dwelling units, that requires either:
 - More than 5 additional parking spaces; or
 - Increased impervious surfaces other than building footprint (for example, additional loading areas, access driveways, paved parking spaces, sidewalks) totaling more than 1000 square feet;
4. Construction or expansion of a parking lot proposing more than 5 new parking spaces for a municipal, institutional, commercial, or industrial building, or a multi-family building with three or more dwelling units.

For the purposes of computing the total gross floor area and total external changes and increases in parking spaces of a site plan, the Planning Board shall aggregate all such applications for building/special permits and/or site plan approval made within the five (5) previous calendar years.

Where provisions for site plan approval of specific uses and buildings exist elsewhere in the Westport Zoning By-Laws, the provisions of the pertinent section shall supersede the provisions of this section.

Site Plan Approval shall not be construed to supersede the exemptions granted by Section 3 of Mass. Gen. Laws Ch. 40A.

15.3 WAIVER OF TECHNICAL COMPLIANCE

The Planning Board may, upon written request of the applicant, waive any of the technical requirements of Westport's Site Plan Approval Rules and Regulations and the procedures of this By-Law provided that the Board determines that such waiver is not inconsistent with the provisions of the Zoning By-Law, or with the intent of Site Plan Approval.

(2007 ATM, Article 19)

15.4 PERFORMANCE STANDARDS

All Site Plans presented for approval shall be prepared in compliance with applicable Westport Zoning Bylaws; the Rules and Regulations Governing the Subdivision of Land, to the extent applicable; and the explicit standards of the Rules and Regulations for Site Plan Approval. In evaluating and rendering a decision on a Site Plan Approval application the Planning Board shall consider whether the proposal will achieve the objectives listed below and may require conditions and safeguards deemed necessary to realize, within reason, these performance standards:

1. Provide convenience and safety of vehicular and pedestrian movement within the site, and in relation to adjacent streets, properties, buildings, structures, and other improvements.
2. Buffer and protect adjoining premises against detrimental or offensive uses.
3. Provide adequate and functional off-street loading and unloading of vehicles, goods, products, materials and equipment incidental to the normal operation of the establishment.
4. Provide adequate access to each structure for fire and service equipment and adequate provision for utilities and stormwater drainage consistent with the functional requirements of the Planning Board's Subdivision Rules and Regulations to the extent applicable, and all applicable local, state and federal codes, statutes, By-Laws, policies, standards and regulations.

5. Minimize negative impacts to the environment by limiting or eliminating: volumes of cut and fill; removal of trees 6" caliper or larger and other vegetation; removal of stone walls; impact on wetland resources, wildlife habitat and other areas of environmental sensitivity; flooding and other impacts of stormwater flow both on- and off-site; soil erosion; and air, water, noise and light pollution.
6. Prevent contamination of groundwater and surface water from onsite wastewater disposal systems or operations on the premises involving the use, storage, handling, or containment of hazardous substances by utilizing Best Management Practices in accordance with all statutes, By-Laws, regulations and policies governing these activities;
7. Promote compatibility among uses by controlling the visibility of parking, storage, or other outdoor service areas viewed from public ways or from premises residentially used or zoned;
8. Divide large expanses of parking with landscaping and shade trees and minimize lighting intrusion and the glare from headlights.
9. Screen service facilities located near the perimeter of the site, including but not limited to: garbage collection, recycling containers, refrigeration units, and utility areas.
10. Relate buildings and structures to the natural and built environment by attention to appropriate scale, massing, height and other factors necessary to achieve harmony with the surrounding natural environment, neighborhood, and Town as a whole.
11. Minimize obstruction of scenic views from publicly accessible locations.
12. Ensure compliance with the provisions of the Board of Health Regulations for Stormwater Quality and Quantity Control Regulations and this Zoning Ordinance including but limited to, Low Impact Development Regulations, stormwater management, parking, loading and signage.

(2011 ATM, Article 40)

15.5 ADMINISTRATION

1. The Planning Board may adopt reasonable fees for administration, technical review, and construction inspection for site plan approval proposals. All expenses for use of outside consultants, ancillary reports or reviews, supplemental studies, advertising, publication of notices, postage and mailings and all other expenses in connection with the site plan including without limitation, sampling and/or testing, shall be borne by the applicant.
2. The Planning Board shall adopt reasonable Rules and Regulations governing Site Plan Approval including administrative procedures and requirements, and design and construction standards.

(2010 ATM, Article 38)

3. The Planning Board may distribute plans to other Boards, Commissions, departments, and outside technical and legal consultants and agencies for their review and comments.
4. The Planning Board may require narrative assessments and/or quantitative studies of the on-site and off-site impacts of the proposed project, including: traffic, drainage, noise, lighting and other environmental factors.

15.6 ENFORCEMENT

The Building Inspector shall have enforcement powers over any Site Plan Approval. The Building Inspector shall inspect and enforce any and all stipulations and/or conditions placed upon the approval of any Site Plan. Failure to satisfy the conditions of any Site Plan Approval will result in the withholding of the Certificate of Occupancy.

15.7 REVIEW AND DECISION

The Planning Board shall ensure the use of the site consistent with the uses permitted in the district in which the site is located and shall give due consideration to the reports received. Prior to the approval of any Site Plan, the Planning Board shall find that the site plan:

1. Protects adjoining premises by avoiding adverse effects on the natural environment and abutters.
2. Provides for convenient and safe vehicular and

pedestrian movement and that the locations of driveway openings are convenient and safe in relation to vehicular and pedestrian traffic circulation, including emergency vehicles, on or adjoining the site;

3. Provides an adequate arrangement of parking and loading spaces in relation to proposed uses of the premises;
4. Provides adequate methods of disposal of refuse or other wastes resulting from the uses permitted on the site;
5. Complies with all applicable requirements of this By-Law, the Rules and Regulations of Site Plan Approval, and the Rules and Regulations Governing the Subdivision of Land (to the extent applicable), unless explicitly waived by the Planning Board.

15.8 APPEAL

The appeal of any decision of the Planning Board hereunder shall be made in accordance with the provisions of Mass. Gen. L. Ch. 40A, §17 or other such provision of the General Laws pertaining to site plan review/approval as they may be amended from time to time. Appeal of a decision on a Site Plan for a by-right use shall be by appeal (to the Zoning Board of Appeals) of the action of the Building Inspector in granting or denying a building permit.

15.9 RELATIONSHIP TO SUBDIVISION PLAN AND OTHER PERMITS

The Planning Board approval of a Site Plan shall neither oblige the Planning Board to approve any related preliminary or definitive plan for subdivision nor substitute for such approval. However, the Planning Board may allow an applicant to combine a submission for Site Plan Approval with a submission for a preliminary or definitive subdivision if such submission conforms to all requirements for both Site Plan Approval and subdivision application. In such case, the Planning Board may conduct a combined public hearing for both Site Plan Approval and subdivision application.

Where the Planning Board serves as the Special Permit Granting Authority for a proposed use, it shall, when possible, consolidate the Site Plan Approval and the Special Permit processes.

An application to the Zoning Board of Appeals for either a Special Permit or a variance requiring Site Plan Approval under this By-Law, shall be accompanied by a site plan

approved by the Planning Board; in the alternative, any special permit or variance granted for work set forth in 15.2 shall contain the following condition: "The work described herein requires the approval of a site plan by the Planning Board pursuant to Article 15 of the Westport Zoning By-Law. Any conditions imposed in such a site plan approval shall also be conditions of this special permit/variance."

Where the Planning Board approves a site plan "with conditions", and said site plan accompanies a special permit or variance application to the Board of Appeals, the conditions imposed by the Planning Board shall be incorporated into the issuance, if any, of a special permit or variance by the Board of Appeals.

No deviation from an approved site plan shall be permitted without the approval of the Planning Board.

15.10 EXPIRATION

Approval of a Site Plan shall lapse after two (2) years from the date of approval, or the date of resolution of any appeal of the decision, if substantial use thereof or construction has not begun, except for good cause. Such approval may, for good cause, be extended in writing by the Planning Board upon the written request of the applicant.

15.11 SEVERABILITY

If a court of competent jurisdiction holds any provision of this bylaw invalid, the remainder of the bylaw shall not be affected thereby. The invalidity of any section or sections or parts of any section or sections of this bylaw shall not affect the validity of the remainder of the Westport Zoning Bylaw.

(2006 ATM, Article 4; 2007 ATM, Article 19 Amended Sec. 15.2 & Sec. 15.3; 2010 ATM, Article 38 amended Sec. 15.5)

ARTICLE 16

ADULT ENTERTAINMENT OVERLAY DISTRICT

16.0 PURPOSE AND INTENT

It has been documented in numerous other towns and cities throughout the Commonwealth of Massachusetts and elsewhere in the United States that Adult Entertainment Establishments are

distinguishable from other business uses and that the location of adult entertainment uses degrades the quality of life in the areas of a community where they are located. Studies have shown secondary impacts such as increased levels of crime, increased demands on police, fire departments and other municipal resources, decreased tax base, and blight resulting from the clustering and concentration of adult entertainment uses. Late night noise and traffic also increase due to the late hours of operation of many of these establishments. This by-law is enacted pursuant to Massachusetts General Law Chapter 40A, Section 9A and the Massachusetts Home Rule Amendment with the purpose and intent of regulating and limiting the location of Adult Entertainment Establishments (as defined within Article 1, Section 1.1 of these By-Laws) so as to prevent or minimize the secondary effects associated with these establishments, and to protect the health, safety, and general welfare of the present and future inhabitants of the Town of Westport.

The provisions of Article 16 have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative matter or materials, including sexually-oriented matter or materials. Similarly, it is not the intent or effect of this Article 16 to restrict or deny access by adults to sexually-oriented matter or materials protected by the Constitution of the United States or of the Commonwealth of Massachusetts, nor restrict nor deny rights that distributors or exhibitors of such matters may have to sell, distribute, or exhibit such matter or materials. Nor is it the intent or effect of this Article 16 to legalize the distribution of obscene matter or materials.

16.1 APPLICABILITY

Article 16 shall apply to all Adult Entertainment Establishments, as defined in Article 1, Section 1.1. Definitions of these By-Laws. Any existing Adult Entertainment Establishment shall apply for an Adult Entertainment Special Permit within 90 days of the effective date of this By-Law. This By-law shall not be construed so as to be more permissive than G.L. c.40A, §§6 and 9A.

16.2 ESTABLISHMENT OF ADULT ENTERTAINMENT OVERLAY DISTRICT (AEOD) & RELATIONSHIP TO UNDERLYING DISTRICTS

The AEOD is established as a district that overlays the underlying district(s), such that any parcel of land lying in the AEOD shall also lie in one or more of the other zoning districts in which it was previously classified, as provided

for in these Zoning By-Laws.

16.3 PERMITTING AUTHORITY

The Special Permit Granting Authority (SPGA) shall be the Zoning Board of Appeals.

16.4 SPECIAL PERMIT USES

All Adult Entertainment Establishments, shall require a Special Permit from the Zoning Board of Appeals with Site Plan Approval under Article 15 from the Planning Board.

16.5 SPECIAL PERMIT SUBMITTAL REQUIREMENTS

Special Permit applications for approval by the Zoning Board of Appeals under this Article 16 shall contain, without limit, the following information:

- a. Name of the proposed business;
- b. A copy of the lease for the business premises;
- c. A full description of the intended nature of the business;
- d. The proposed days and hours of operation;
- e. Name and address of each person who has or will have a legal or beneficial interest in the business. If a corporation has such interest, the names and addresses of the officers and directors of same; if such corporation is not publicly owned, the names of the stockholders; if a partnership has such a legal or beneficial interest, the names and addresses of all general and limited partners and all persons with a beneficial interest in the partnership.
- f. Name and address of each person who will have management responsibility for the proposed business and specification of the days and times at which each such person will be present at the business premises. The application shall include the names and addresses of each person with management responsibility that shall be authorized and available to respond promptly to complaints at any time when a manager is not present at the business premises and shall specify how each such person can be contacted without delay at any such time.
- g. A certification that none of the persons named in the

previous two subparagraphs has ever been convicted of violating the provisions of General Laws Chapter 119, Section 63 or General Laws Chapter 272 Section 28.

- h.** A plan to scale showing the lot on which the proposed business will be located, including all buildings, parking spaces, driveways, abutting streets and lots and any proposed landscaping; a floor plan to scale showing the proposed layout of the business premises; exterior elevation drawings to scale showing the proposed exterior appearance of the business premises, including each proposed sign and its content and the treatment of doors and windows. Should the special permit be granted, the Planning Board will require additional plans and information as specified under Article 15 Site Plan Approval and its regulations for same. In the interest of efficiency, the applicant is advised to prepare plans, drawings and reports such that they are consistent with the Planning Board's requirements or may be augmented with additional information to meet those standards.
- i.** A traffic study prepared by a Massachusetts Registered Professional Civil Engineer reliably determining the effect on traffic likely to be caused by the proposed business and setting out all measures proposed to be taken to mitigate any adverse traffic impact. The traffic study shall reliably determine any parking needs of the proposed business and shall specify how these needs will be met without adverse impact on- or off-site.
- j.** Total number of employees and hours they are expected to work;
- k.** Proposed security precautions including, without limit, a security plan ensuring that minors in no event be exposed to sexually explicit material or performances except as authorized by law.
- l.** A proposed plan for ensuring that the stock in trade of the business or any performance presented shall include no obscene material, as defined in General Laws Chapter 272, Section 31.
- m.** If the application is for renewal of a special permit for an Adult Entertainment Establishment, it shall contain a certification that the establishment has complied with the terms and conditions of the special

permit for which renewal is sought, and shall specify any and all proposed changes to the extent, nature and location of the use.

16.6 RULES AND REGULATIONS

The Zoning Board of Appeals shall promulgate rules and regulations governing the issuance of special permits for Adult Entertainment Establishments and shall file a copy of said rules and regulations with the office of the Town Clerk, as required by General Laws Chapter 40A, Section 9A. The Board may assess reasonable fees for administration and review of such applications, including, but not limited to, consultant review fees, including legal fees incurred by the Zoning Board of Appeals in reviewing the application, as provided in G.L. c.40, §53G.

16.7 SPECIAL PERMIT STANDARDS FOR ADULT ENTERTAINMENT

A Special Permit shall be granted, subject to such reasonable conditions relative to time, place and manner of the operation as the Zoning Board of Appeals may deem necessary or appropriate, for an Adult Entertainment Establishment unless one or more of the following conditions is not satisfied:

a. Submission Standards:

An application containing inaccurate or incomplete information shall be cause for denying a special permit. If a special permit is issued and information in the application is later found to be false, this shall be cause for revoking, denying renewal of or modifying the special permit. An application for a renewed special permit shall be determined in the same manner as the original application except that failure to comply with the conditions of the original permit or to follow the approved plans shall be cause for denial of a renewal and for revocation of the original permit.

b. Location and Site Standards:

No Adult Entertainment Establishment may be located outside of an AEOD.

Maximum lot coverage, including but not limited to structures, parking and driveway areas, shall be less than fifty percent (50%), including parking and driveway areas.

c. Display Standards:

No signs, graphics, pictures, publications, videotapes, movies, covers, merchandise, or other implements, items or advertising, depicting, describing or relating to sexual conduct or sexual excitement as defined in Massachusetts General Law Chapter 272, Section 31 shall be displayed in the windows of, or on the exterior of the building of, any Adult Entertainment Establishment, or be visible to the public from the pedestrian sidewalks or walkways or from other areas outside such establishments.

d. Screening Standards:

All building openings, entries and windows shall be screened in such a manner as to prevent visual access to the interior of the Adult Entertainment Establishment by the public.

e. Minors:

No Adult Entertainment Establishment shall be allowed to disseminate adult matters to minors, to cause Adult Entertainment Establishment displays to be viewed by minors, or to allow minors to linger on the premises.

f. Applicant Standards:

No Special Permit shall be issued absent compliance with the provisions of Section 16.5 (e), (f) and (g) and confirmation of the truthfulness of the information provided by the applicant in this regard.

g. Parking and Access Standards:

Parking shall comply with the requirements of Article 5.1 of these By-Laws governing off-street parking, except that off-site parking shall not be allowed, and with recommendations of traffic and engineering consultants including those made during the Site Plan Approval process. Drive-through facilities are prohibited at all Adult Entertainment Establishments.

h. Security Standards:

The applicant may be required to provide and pay for a police security detail at any time when, in the opinion

of the Chief of Police, conditions warrant additional security.

16.8 LAPSE OF SPECIAL PERMIT

A special permit issued under this Section 16 shall lapse upon anyone of the following occurrences:

- a. A change in or expansion of the location(s) of the adult use, including but not limited to access, parking, and areas for performance or sales;
- b. Sale, transfer or assignment of the business or the business and/or premises;
- c. Change in ownership or management.
- d. Failure to commence a permitted Adult Entertainment Establishment, within the term of the special permit as established in Section 16.8(e), except for good cause, including such time as is required to pursue or await the determination of an appeal to the court from the grant thereof.
- e. Any special permit issued for an Adult Entertainment Establishment shall be for a term specified by the Board of Appeals not to exceed two (2) years.

16.9 SEVERABILITY

If any portion of this by-law is ruled invalid, such ruling shall not affect the validity of the remainder of the By-Law.

(2008 ATM, Article 45)

ARTICLE 17

COMMERCIAL AND NON-COMMERCIAL WIND ENERGY FACILITIES

17.0 PURPOSE

The purpose of this by-law is to minimize the impacts of wind turbines on the character of neighborhoods, property values, scenic, historic, and environmental resources of the Town and to protect health and safety while allowing wind energy.

17.1 APPLICABILITY

Construction and use of a Wind Energy Facility,

Meteorological Tower or any part thereof shall be permitted in all zoning districts subject to the requirements set forth by this By-Law.

17.2 DEFINITIONS

17.2.1 Wind Energy Facility:

All equipment, machinery, and structures, whether underground, on the surface, or overhead used to collect, transmit, distribute, store, supply, or sell energy derived from wind, including but not limited to wind turbines (rotors, electrical generators and towers), anemometers (wind measuring equipment), transformers, substations, power lines, control and maintenance facilities, and site access and service roads.

17.2.2 Wind Energy Facility, Commercial:

A Wind Energy Facility that has a rated capacity of more than 60kw.

17.2.3 Wind Energy Facility, Non-Commercial:

A Wind Energy Facility that has a rated capacity of less than or equal to 60kw.

17.2.4 Shared Wind Energy Facility:

A Wind Energy Facility that serves multiple properties held under separate ownership.

17.2.5 Wind Turbine:

A device for converting wind energy to mechanical, electrical or another form of energy.

17.2.6 Tower:

The monopole, freestanding, or guyed structure that supports a wind turbine.

17.2.7 Meteorological Tower (Met Tower):

Meteorological tower (Met Tower): Includes the tower, base plate, anchors, guy cables and hardware, anemometers (wind speed indicators),

wind direction vanes, booms to hold equipment, anemometers and vanes, data logger, instrument wiring, and any telemetry devices that are used to monitor or transmit wind speed and wind flow characteristics over a period of time for either instantaneous wind information or to characterize the wind resource at a given location.

17.2.8 Tower Height:

The vertical distance from ground level to the highest point of the tower.

17.2.9 Total Height:

The vertical distance from ground level to the tip of a Wind Turbine blade when it is at its highest point.

17.3 REQUIREMENTS

The requirements of this Section, 17.3, with the exception of 17.3.5 and 17.3.6, shall apply to both Towers and Met Towers.

17.3.1. Mounting and Engineering Requirements.

Wind turbines and associated tower-mounted components shall be mounted only on a guyed, monopole or lattice structure. The applicant shall provide engineered drawings, plans and supporting data for the tower and tower foundations as well as a site plan depicting location of the Wind Energy Facility relative to property lines, buildings and other structures to the Building Inspector/Zoning Enforcement Officer.

Where a special permit and/or Site Plan Approval are required, the applicant shall submit said documents to the Zoning Board of Appeals and Planning Board. Said plans, drawings and supporting data shall be prepared and stamped by the appropriate registered professional engineer licensed in the state of Massachusetts. Site Plans showing setbacks from property boundaries shall be prepared and stamped by a Registered Professional Land Surveyor licensed in Massachusetts. The Zoning board of Appeals and/or Planning board may require peer review of the engineering at the applicant's sole expense.

17.3.2. Maximum Height.

The total height of the Wind Energy Facility shall not exceed 190 feet. A Wind Energy Facility with tower height over 140 in height may be allowed by special permit from the Zoning Board of Appeals.

17.3.3. Lighting.

Tower lighting shall not be permitted. If the FAA requires lighting of a proposed tower because of its height, the height shall be reduced to eliminate the need for lighting.

17.3.4. Setback Requirements.

Towers shall be set back from property lines a distance equal to the total height. Upon provision by the applicant of a recordable easement from an abutting property owner(s) that is satisfactory to the appropriate permitting authority (Building Inspector/Zoning Enforcement Officer for facilities allowed as a matter of right) or special permit granting authority (Zoning Board of Appeals for those requiring a special permit), that authority may allow a reduction in property line setback to such abutting property.

17.3.5. Density.

A maximum of two (2) wind turbines shall be allowed on a lot. A special permit from the Zoning Board of Appeals shall be required for more than two (2) wind turbines.

17.3.6. Shared Wind Energy Facility.

A special permit from the Zoning Board of Appeals shall be required for a Shared Wind Energy Facility. The applicant(s) shall submit for review and approval legal agreements providing for the repair and maintenance of the shared facility.

17.3.7 Discontinuance.

A Wind Energy Facility that is out-of-service for a continuous 24-month period shall be deemed to have been discontinued. Upon receipt of a Notice

of Discontinuance from the Building Inspector/Zoning Enforcement Officer, the owner shall have the right to respond to the Notice of Discontinuance within 30 days from receipt. The Building Inspector/Zoning Enforcement officer shall withdraw the Notice of Discontinuance and notify the owner that the Notice has been withdrawn if the owner provides information that demonstrates that the Wind Energy Facility has not been discontinued. If the Wind Energy Facility is determined to be discontinued, the owner of the Wind Energy Facility shall remove the system at the owner's sole expense within three months of receipt of the Notice of Discontinuance. Failure to remove the system within the said time period may subject the owner to action by the Building Inspector/Zoning Enforcement Officer under the Non-Criminal Disposition provisions of Mass. Gen. Law Ch.40, Section 21D and Section 3702 of the general By-Laws and regulations of the Town of Westport. The Building Inspector/Zoning Enforcement Officer may impose fines not exceeding three hundred dollars per day until the discontinued Wind Energy Facility is removed.

17.3.8 Tower Access.

The tower shall be designed and installed so as not to provide step bolts or a ladder readily accessible to the public for a minimum height of 12 feet above the ground.

17.3.9 Tower Uses.

Towers permitted for Wind Energy Facilities shall not be used for any purpose inconsistent with the definition of a Wind Energy Facility.

17.3.10 Color.

Wind Energy Facilities shall be of neutral color, to minimize visual impact.

17.4 Severability.

The invalidity of any section, subdivision, paragraph or other part of this By-Law shall not affect the validity of the remainder of the By-Law.

ARTICLE 18

OPEN SPACE RESIDENTIAL DEVELOPMENT (OSRD)

18.0 PURPOSE AND INTENT

The purpose of Article 18 of the Westport Zoning By-Law is to allow Open Space Residential Development (OSRD) upon review and approval of the Planning Board ("the Board") pursuant to Sections 81K to 81GG of Mass. General Law Ch. 41 The Subdivision Control Law), and in accordance with the Board's Rules and Regulations Governing the Subdivision of Land, as a flexible alternative to conventional subdivision.

The intent of Westport's OSRD By-Law is to:

- a. Encourage the permanent preservation and efficient stewardship of open space, agricultural land, forestry land, wildlife habitat, and other natural resources, including aquifers, water bodies, riverine areas and wetlands, historical and archeological resources, passive recreational areas, and scenic areas;
- b. Protect drinking water supplies;
- c. Facilitate the siting and construction of innovative and shared septic systems that will provide more effective treatment and cleaner effluent;
- d. Minimize the total amount of disturbance on the site;
- e. Encourage a less sprawling and more efficient form of development that consumes less open land and conforms to existing topography and natural features better than a conventional or grid subdivision;
- f. Perpetuate the appearance of Westport's traditional New England landscape;
- g. Allow for greater flexibility and creativity in the design of residential developments;
- h. Promote more sensitive siting of buildings and better overall site planning;
- i. Protect the value of real property;
- j. Allow landowners a reasonable return on their

investment; and

- k. Facilitate the construction and maintenance of streets and utilities, and the provision of public services in a more economical and efficient manner.
- l. Generally encourage more sustainable development using recognized principles such as low Impact Development and Smart Growth.

18.1 **APPLICABILITY AND ELIGIBILITY**

In order to be eligible for consideration as an OSRD, the tract to be subdivided must meet all of the following criteria.

Minimum Size of Tract:

The tract to be subdivided (which may consist of more than one contiguous parcel) shall contain a minimum of five (5) total acres.

Location:

The Zoning Districts in which OSRD's may be permitted by the Board are noted in the Table of Use Regulations of these Zoning By-Laws.

The entire tract shall be located within the Town of Westport.

The Board may, in its sole discretion, permit lots on directly opposite sides of a street to qualify as a single tract of land for OSRD purposes only. In order to allow such qualification of a tract of land divided by a street, the Board must find that this action is consistent with and enhances the purpose and intent of the OSRD By-Law and would not result in any more dwelling units than would be allowable under the Westport Zoning By-Law and the Board's Rules and Regulations Governing the Subdivision of Land if the lots on either side of the street were developed separately.

Land Division:

The tract may be a subdivision or a division of land pursuant to Mass. General Law c.41, section 81-P.

Dwelling Type:

The proposed dwelling types shall be single-family or two-family dwellings, or a mix thereof.

18.2 ADMINISTRATIVE PROCEDURE

All applications for OSRD Approval shall be submitted to the Board and shall be reviewed by the Board following normal procedures as established by Chapter 41, Sections 81K-81GG "The Subdivision Control Law" and the Board's Rules and Regulations Governing the Subdivision of Land, as each may be amended from time to time. The Board may approve, with conditions, or deny an application for an OSRD after assessing whether the OSRD better promotes the intent of this By-Law than a conventional subdivision.

18.3 PRE-APPLICATION

The applicant is encouraged to request a pre-application review at a regular meeting of the Board. The Board may invite representatives from other boards and commissions, such as the Conservation Commission and Board of Health to attend. The purpose of a pre-application review is to minimize the applicant's costs of engineering and other technical expenses by commencing discussion with the Board at the earliest possible stage in the development. At the pre-application review, the applicant may outline the proposed OSRD and seek preliminary, but not binding, feedback from the Board and other Town bodies and staff. This process will streamline administration of the application, enhance communication and coordination among Town departments, and save the Town time and money.

18.4 DESIGN PROCESS

Schematic Drawings from the Four-Step Design Process.

Each development plan shall follow a Four-Step Design Process, as described below. From the beginning of the submittal and review process, applicants shall demonstrate to the Planning Board, through schematic drawings, that these four design steps were followed by their site designers in determining the layout of their proposed streets, house lots, and open space.

- a. Designating the Open Space.** First, the open space is identified. The open space shall include, to the extent feasible, the most sensitive and noteworthy natural, scenic, and cultural resources on the property. Such items may include without limit: specimen trees, stonewalls, archaeological features, unique habitats,

plant communities, distinctive vistas, wetlands and riverine areas, or other areas of special natural, cultural or recreational interest.

- b. **Location of House Sites.** Second, potential house sites are tentatively located. House sites should be located not closer than 100 feet to wetlands areas, but may be situated within 50 feet of open space areas, in order to enjoy views of the latter without negatively impacting the former.
- c. **Street and Lot Layout.** Third, align the proposed streets to provide vehicular access to each house in the most reasonable and economical way, in conformance with existing natural landforms. When lots and access streets are laid out, they shall be located in a way that avoids or at least minimizes adverse impacts on open space. To the greatest extent practicable, wetland crossings and streets traversing existing slopes over 15% shall be strongly discouraged.
- d. **Lot Lines.** Fourth, draw in the lot lines. These are generally drawn midway between house locations, in a manner that meets the lot requirements below.

18.5 GENERAL APPLICATION REQUIREMENTS

18.5.1 Application Form

Applications for OSRD's shall be submitted on a form provided by the Board.

18.5.2 Concept Plan

In addition to the requirements set forth in the Board's Rules and Regulations Governing the Subdivision of Land, an application shall include a Concept Plan and a Yield Plan. The Concept Plan shall address the general features of the land; give approximate configurations of the lots, open space and roadways; and include the information required for a preliminary plan in the Board's Rules and Regulations Governing the Subdivision of Land. The concept plan shall incorporate the Four-Step Design Process above, and the Design Standards below, to propose a conceptual design for the development. Production of the Concept Plan by a Registered Landscape Architect is strongly encouraged.

18.5.3 Yield Plan

The basic number of units shall be determined by the number of lots shown on a preliminary subdivision plan conforming to the requirements of the Rules and Regulations Governing the Subdivision of Land. Such preliminary plan shall include a perimeter survey prepared by a Registered Professional Land Surveyor, location of wetlands delineated by a wetlands scientist, and topography based, at a minimum, on the most recent USGS topography map. The applicant shall demonstrate to the satisfaction of the Board and its consulting engineer that the preliminary plan is buildable without reliance on waivers of the subdivision regulations, without multiple wetlands crossings, and without extraordinary engineering techniques.

18.5.4 Other Information

The submittals required by this By-Law are in addition to any other requirements of the Rules and Regulations Governing the Subdivision of Land or by other sections of the Westport Zoning By-Laws.

18.6 SITE VISIT

The Board and/or its agents may conduct site visits either at the pre-application stage or during the public hearing. The applicant and/or his agents are encouraged to attend.

18.7 REDUCTION OF DIMENSIONAL REQUIREMENTS

The Board may authorize modification of lot size, shape, width, and other dimensional requirements for lots within an OSRD, subject to the following limitations:

	Zoning District	
Dimensional Requirements	Residence/ Agricultural, Business, Unrestricted	Residence/ Agricultural, Business, Unrestricted
	Single-Family	Two-Family

Minimum Lot Area (sq.ft.)	20,000	30,000
Minimum Lot Area of Upland (sq.ft.)	20,000	30,000
Minimum Lot Frontage (ft.)	80	120
Minimum Front Yard Width (ft.)	50	50
Minimum Front Setback (ft.) *	25	25
Minimum Side Setback (ft.)	10	10
Minimum Rear Setback (ft.)	25	25
Maximum Lot Coverage		

The Board may, in its sole discretion, allow one (1) additional building lot where the applicant proposes to use decentralized Innovative/Alternative (I/A) Treatment system(s), or decentralized "localized" treatment system(s) (typically for flows over 10,000 gallons per day), that significantly reduce bacterial and nutrient discharge to the environment (as compared with conventional onsite septic systems), and that are acceptable to the Westport Board of Health and to Massachusetts Department of Environmental Protection.

There shall be a minimum building location area on each lot where a circle having a diameter equal to the required lot frontage in feet can be placed. Such circle shall contain an area of land that, in the opinion of the Board, provides a suitable dwelling site.

Lots having reduced area or frontage in accordance with the above table shall not have frontage on a street other than a street created through the OSRD application; provided, however, that the Board may waive this requirement where it is determined that such reduced lot(s) are consistent with existing development patterns in the neighborhood.

18.8 OPEN SPACE REQUIREMENTS

18.8.1 Area Requirements

A minimum of fifty percent (50%) of the parcel shown on the development plan shall be open space and shall exclude required yards. No more than 30% of such open space shall be wetland resource areas, as defined pursuant to Mass. General Law

Ch. 131, section 40.

The open space shall be contiguous. Contiguous shall be defined as being connected. Such open space may, however, be separated by the roadways or accessory amenities constructed within the OSRD. The Planning Board may waive this requirement for all or part of the required open space if it determines that allowing non-contiguous open space will promote the goals of this By-Law.

18.8.2 Uses and Restrictions

The required open space shall be used for conservation, historic preservation, environmental education, passive recreation, aquifer recharge, park purposes, agriculture, horticulture, forestry, or for a combination of these uses, and shall be served by suitable access if necessary for such purposes. No commercial use shall be made of the required open space. The open space shall be arranged so as to achieve the preservation or other objective for which it is intended. Based on the resources identified in step one of the four-step design process, the Board may restrict the use of open space to one or more of the above uses, in order to meet the intent of this By-Law. Where open space is used for shared wastewater treatment facilities, the use of said open space is subject to Title V restrictions. The Board may permit up to 10% of the open space to be paved or built upon for structures accessory to the dedicated use or uses of such open space (e.g. pedestrian walks and bike paths).

Any proposed open space shall be subject to a recorded restriction enforceable by the Town or a non-profit organization the principal purpose of which is the conservation of open space, providing that such land shall perpetually be kept in an open state, that it shall be preserved exclusively for the purposes set forth herein, and that it shall be maintained in a manner which will ensure its suitability for its intended purposes. Where common open space and/or other shared facilities, including without limit septic systems and trails are to be owned by the homeowners in an OSRD, they

shall be subject to a Homeowner's Agreement and deed restrictions as deemed necessary by, and recommended and/or approved by Town Counsel and to ensure their maintenance.

The Board may allow stormwater management systems serving the OSRD to be located within the open space, where care is taken to avoid placing them near sensitive natural or cultural resources. Surface systems, such as retention and detention ponds shall not qualify towards the minimum open space required.

Wastewater shall be managed in accordance with Title V, Town By-Laws, and the regulations of the Westport Board of Health. Where town sewer is available nearby, the OSRD shall be connected at the applicant's expense to that system. Where town sewer is not available, septic systems may be installed on individually owned lots. Where this arrangement cannot be met, alternatives such as shared septic designs may be proposed in consultation with the Board of Health. In the case of shared systems, the wastewater system may be located in the open space, when the Planning Board finds such arrangement will enhance the purpose and intent of the OSRD.

For on-site and shared systems, decentralized Innovative/Alternative (I/A) Treatment system(s), or decentralized "localized" treatment system(s) (typically for flows over 10,000 gallons per day), that significantly reduce bacterial and nutrient discharge to the environment (as compared with conventional onsite septic systems), and that are acceptable to the Westport Board of Health and to Massachusetts Department of Environmental Protection are preferred.

18.8.3 Ownership of Open Space

The open space shall, at the Board's election, be conveyed to:

- The Town or its Conservation Commission;
- A non-profit organization, the principal purpose of which is the conservation of open

space and any of the purposes for such open space set forth above;

- A corporation or trust owned jointly or in common by the owners of lots within the OSRD. If such corporation or trust is utilized, ownership thereof shall pass with conveyance of the lots in perpetuity. Maintenance of the open space and facilities shall be permanently guaranteed by such corporation or trust that shall provide for mandatory assessments for maintenance expenses to each lot. Each such trust or corporation shall be deemed to have assented to allow the Town to perform maintenance of the open space and facilities, if the trust or corporation fails to provide adequate maintenance, and shall grant the town an easement for this purpose. In such event, the town shall first provide fourteen (14) days written notice to the trust or corporation as to the inadequate maintenance, and, if the trust or corporation fails to complete such maintenance, the town may perform it. The owner of each lot shall be deemed to have assented to the town filing a lien against each lot in the development for the full cost of such maintenance, which liens shall be released upon payment to the town of same. Each individual deed, and the deed or trust or articles of incorporation, shall include provisions designed to effect these provisions. Documents creating such trust or corporation shall be submitted to the Planning Board for approval, and shall thereafter be recorded in the Registry of Deeds.

18.9 DESIGN STANDARDS

The following design standards shall apply to all OSRD's and shall govern the design and development process.

- The landscape shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal. Any grade changes shall be in keeping with the general appearance of the neighboring developed areas. Individual building sites shall be designed to maintain existing topography and cover. Topography, tree cover,

and natural drainage ways shall be treated as fixed determinants of road and lot configuration rather than as malleable elements that can be changed to follow a preferred development scheme.

- Streets shall be designed and located in such a manner as to maintain and preserve natural topography, significant landmarks, and trees; to minimize cut and fill; and to preserve and enhance views and vistas on or off the subject parcel.
- The removal or disruption of significant historic, archaeological, or traditional uses, structures, or architectural elements shall be avoided or minimized insofar as practicable, whether these exist on the site or on adjacent properties.
- A buffer area of 50 feet shall normally be provided at the perimeter of the property where it abuts residentially zoned and occupied properties. No vegetation in this buffer area will be disturbed, destroyed or removed, except for normal maintenance of structures and landscapes approved as part of the project. Where the Planning Board determines that a smaller buffer (or no buffer) will suffice to accomplish the objectives set forth herein, the 50-foot buffer is not required. Where the development abuts or includes a body of water or wetlands, these areas and the 100-foot buffer to such areas shall be incorporated into the open space.
- Drainage. The Planning Board shall encourage the use of "soft" (non-structural) stormwater management techniques (such as vegetated swales) and other low-impact drainage techniques that reduce impervious surface and enable infiltration where appropriate, and are consistent with the drainage standards of the Board's Rules and Regulations Governing the Subdivision of Land and other Town by-laws.
- Streets and Utilities. All streets and ways, whether public or private, and utilities shall be designed and constructed in compliance with the Board's Rules and Regulations Governing the Subdivision of Land. Variations shall be permitted by the Board on a finding that the objectives of this section are better served with such variations.

The Board shall review and process an OSRD application consistent with the procedures of Mass. General Law c. 41, Sections K - GG, and the Board's Rules and Regulations Governing the Subdivision of Land. The Board may approve, approve with conditions, or deny an application for a OSRD, after assessing whether the OSRD better promotes the objectives of this section than a conventional subdivision development.

18.11 RELATION TO OTHER REQUIREMENTS

The submittals and permits of this section shall be in addition to any other requirements of the Subdivision Control Law or any other provisions of this Zoning By-Law. The Planning Board shall coordinate the review procedures and public hearing required for any application for an OSRD with the review procedures and public hearing required for approval of a conventional subdivision plan.

18.12 SEVERABILITY.

If a court of competent jurisdiction holds any provision of this bylaw invalid, the remainder of the bylaw shall not be affected thereby. The invalidity of any section or sections or parts of any section or sections of this bylaw shall not affect the validity of the remainder of the Westport Zoning Bylaw.

(2007 ATM, Article 20)

ARTICLE 19

NOQUOCHOKE OVERLAY DISTRICT (NOD)

19.0 PURPOSE

The purpose of the NOD by-law is to provide a mechanism for the approval of:

- A range of housing choices, including but not limited to, moderate-density, multi-family dwellings;
- Housing suitable for households of varying ages, sizes, and income levels;
- Dwelling units that shall be eligible for inclusion on

Westport's Subsidized Housing Inventory under the Local Initiative Program of M.G.L. Ch. 40B, as administered by the Department of Housing and Community Development (DHCD);

- Development in a manner that conserves natural features, such as wetland resources, open space, areas of scenic beauty, and vegetated buffers along public ways and adjacent residential properties;
- Development that groups buildings to preserve open space; facilitate efficient provision of utilities; and create a sense of neighborhood and community;
- Development in accordance with a site plan demonstrating a design that is both technically functional and in harmony with both the site and surrounding land uses.
- Development that, by means of site planning and building design, promotes social sustainability.

19.1 DEFINITIONS

Development: Any project applied for and/or approved pursuant to Article 19 of the Zoning By-Laws.

19.2 POWERS AND ADMINISTRATIVE PROCEDURE

This Bylaw shall apply to developments in the Noquochoke Overlay District (NOD) as defined in Article 3 of the Westport Zoning By-Laws. Any such development shall require, without limit, a special permit under Article 2 of the Zoning By-Laws and G.L. c. 40A, §9; Site Plan Approval under Article 15; and an Inclusionary Housing Special Permit under Article 13. For the purposes of Article 19, the Planning Board of the Town of Westport (the "Board") is hereby designated as the Special Permit Granting Authority (SPGA). As such, the Board may adopt any additional regulations, forms, fees, design guidelines, and design and construction standards it deems necessary to administer this By-Law, provided that it shall not regulate or restrict the use of materials or methods of construction of structures that are regulated by the State Building Code. In granting a special permit, the Board may, without limit, impose controls on the dimensions, and bulk of buildings to enhance architectural compatibility with the surrounding neighborhood, and on locations of buildings and site improvements to enhance a sense of community and to ensure public health, safety and convenience and the protection of natural and cultural resources.

19.2.1 Procedures

The Board shall act on all special permit applications as provided by the Rules and Regulations of the Planning Board as a Special Permit Granting Authority.

19.2.2 Consolidation of Permits and Procedures

When approval is sought under this article for a project that requires special permit relief from the Planning Board pursuant to multiple Articles of the Zoning By-Laws such as, but not limited to, Article 13 Inclusionary Housing, and requiring Site Plan Approval where the Board serves as the reviewing authority, the applicant is strongly encouraged to simultaneously apply to the Board for all of the relief and submit all materials and fees initially required by those articles with the application made under this article. Whenever possible and practicable, the Board may consolidate the multiple special permits and site plan approval proceedings, with regard to conducting the public hearings and issuing decisions. If a decision is granted under this article and other relief is addressed as well, whenever possible, the Board will issue an integrated decision for the entire project. Notices for public hearings should reference the Zoning By-Law sections under which relief is sought.

19.3 PERMITTED AND PROHIBITED USES

19.3.1 Permitted Uses

Uses allowed by right pursuant to the Table of Use Regulations in the underlying district shall also be allowed by right in this overlay district. The following uses in the Noquochoke Overlay District shall require a special permit:

- a.** Developments including Single-family, Two-, and/or Multi-family dwellings with up to 12 dwelling units per building, including structures and facilities accessory thereto,
- b.** Community uses accessory to the residential

uses,

- c. Projects containing a combination of uses allowed by right and the aforementioned uses.

19.3.2 Prohibited Uses

Those uses prohibited in the underlying district pursuant to the Table of Use Regulations or not expressly allowed in this overlay district shall be prohibited.

19.4 APPLICATION FOR A SPECIAL PERMIT APPROVAL

An application for a Noquochoke Overlay District Special Permit shall adhere to the Rules and Regulations of the Planning Board as Special Permit Granting Authority.

19.5 RELATIONSHIP TO OTHER REGULATORY REQUIREMENTS

The submittals and permits of Article 19 shall be in addition to any other requirements of the applicable sections of the Rules and Regulations governing the Subdivision of Land in Westport, MA, Rules and Regulations of the Westport Planning Board for Site Plan Approval, and the Rules and Regulations of the Westport Planning Board for Inclusionary Housing Special Permits. Where such requirements conflict, the more stringent requirement shall control unless the Board determines that requirement to be unnecessary to protect the public interest and/or inconsistent with the intent of Article 19.

19.6 DENSITY

The maximum number of dwelling units allowed shall be established by calculations based upon a Net Usable Land Area (NULA) plan for the overall property, submitted by the applicant as part of the initial submission. The NULA acreage shall be established by subtracting all water bodies and any wetland resource area subject to protection under M.G.L. Ch. 131 s. 40 (the "Wetland Protection Act") and 310 CMR 10.00 (the "Wetland Protection Regulations") from the gross acreage of the site. The remaining upland area shall be the NULA for the purposes of establishing the number of units allowed in a development. The total number of proposed units within the development shall not exceed eight (8) dwelling units per NULA acre with a maximum of fifty-four (54) total dwelling units in the district. These may be in one-bedroom, two-bedroom, or three-bedroom dwelling units. The percentages of unit types shall be dispersed equally among market-rate

units and affordable units. The distribution of unit types shall conform with Westport's Housing Plan and/or Needs Assessment.

19.7 AREA AND DIMENSIONAL REQUIREMENTS

There shall be no minimum lot area, frontage, floor area ratio, lot width or yard requirements within the NOD, or for any lot or building within the NOD, except as provided in this section; however, all developments with the NOD shall comply with the applicable requirements of the Aquifer Protection and Flood Plain Overlay Districts. The Board may impose appropriate conditions on the layout, location and size of buildings, structures and open spaces. Nothing contained herein shall relieve the owner of a proposed Development from receiving final approval of a definitive subdivision plan in accordance with the Town's Subdivision Regulations if the Development proposes subdividing or re-subdividing the development site. In this case, the Special Permit application shall be accompanied by such other data as is required by the Rules and Regulations Governing the Subdivision of Land.

19.7.1 Building Height, Bulk and Setback Requirements

19.7.1.1 Building Height and Bulk

The maximum height of any building in the NOD shall be 35 feet. Building height shall be measured as the vertical distance from the Average Natural Grade under the footprint of the building, to the highest point of the roof assembly.

Architectural elements that do not add interior or exterior floor area to a building, such as chimneys, and vents, are not considered part of the height of the building. Average Natural Grade shall be derived from the average elevation of the natural grade along the exterior of the building facing the front lot line or street line and the average elevation of the natural grade along the exterior of the rear or opposite side of the building.

The livable floor area of the third level or floor of a building shall be 50 percent or less of the livable floor

area of the second level or floor of that building.

19.7.1.2 Setbacks from NOD Boundary

All buildings, structures and facilities within the NOD shall maintain a minimum setback of 30 feet from the NOD boundary where that boundary coincides with the sideline of American Legion Highway.

The setback of all buildings from the NOD boundary in all other instances shall be at least 1.5 multiplied by the height of the intersection of building wall and roof on the side of the building nearest the NOD boundary.

Other major structures, and major stormwater management facilities, such as retention/detention basins, shall be set back at least 20 feet from the NOD boundary. Other utilities, roads and access driveways, swales, and minor improvements such as accessory buildings shall be set back at least 10 feet from the NOD boundary unless otherwise specified by the Board. All buildings, structures and major facilities within the NOD shall be shielded from adjacent properties by a buffer, adequate in the Board's opinion, which shall contain landscape elements.

19.7.1.3 Separation of Buildings

The minimum separation of buildings within the NOD shall be 20 feet. The Board may require greater separation of between larger buildings or may permit lesser separations if it finds that separation of less than 20 feet meets the purpose and intent of the NOD.

19.7.1.4 Front Yard Setbacks

The minimum front yard setback from the street or access drive within the NOD shall be 20 feet for a single-family or

two-family dwelling, and 30 feet for a multi-family dwelling.

19.8 BUILDING REQUIREMENTS FOR MULTI-FAMILY DWELLINGS

In the NOD, there shall be no more than 12 dwelling units and two garage spaces per dwelling unit in any residential building. The maximum length of any residential building shall be not more than 120 feet.

19.9 OPEN SPACE REQUIREMENTS

The development shall meet the Open Space Requirements as delineated in section 18.8 of Article 18 Open Space Residential Development (OSRD). Any special permit granted shall contain, as a condition of approval, that the required open space shall be protected by a permanent conservation restriction which shall be recorded before the conveyance of any unit occurs. Said restriction shall be held by the Conservation Commission, a non-profit conservation organization, or an organization or trust representing homeowners in the development, at the option of the Planning Board. The open space shall allow walking paths and other passive recreational uses, but shall not be use for the siting of any structure, building, septic system, well (drinking water or geothermal) or utilities or pipes.

19.10 ARCHITECTURAL DESIGN, COMMUNITY OPEN SPACES AND AMENITIES, AND NON-VEHICULAR CIRCULATION

19.10.1 Community and Private Open Spaces and Amenities

In addition to the contiguous open space required to be restricted to conservation and passive recreational use, the design of the site shall incorporate small private and community outdoor spaces, designed as "outdoor rooms", such as greens or other landscaped areas, and a system of pathways or sidewalks designed to provide for internal pedestrian circulation among dwellings and other facilities. The open spaces surrounding buildings and within neighborhoods shall provide for plantings and outdoor sitting areas, as well as small gathering and recreational areas for the use of the residents of the development. Outdoor areas for the use of inhabitants of each building shall be provided contiguous to each building with attention being paid to the delineation of public versus private outdoor spaces. Amenities such as

porches and landscaped sitting areas may be used to fulfill this requirement. Areas or facilities designed for use by all members of the Noquochoke community or neighborhood shall be distributed in such a manner as to allow easy, non-vehicular, access for all of the Noquochoke residents they are designed to serve, as well as vehicular access, where appropriate.

19.10.2 Non-Vehicular Circulation

Sidewalks shall be provided along at least one side of all streets and/or access driveways within the development unless waived by the Board in favor of equivalent, alternative pathways providing convenient access among all buildings and community amenities. A pedestrian connection shall be provided to American Legion Highway.

19.10.3 Architectural Design

Building design shall be consistent in scale, bulk, materials, color and typology with the architecture of the South Coast of Massachusetts. Private, ground floor entries for each dwelling unit, located on the front of residential buildings are preferred. Window area equivalent to a minimum of twenty-five percent of the first floor wall area of the primary facade of residential buildings is preferred. For larger buildings, variation in roof shape and building form, articulation of the facade, variation of street setback, and other means to enhance architectural interest are encouraged. In granting a Special Permit, the Board may impose conditions to ensure architectural compatibility with the character of the region and/or neighborhood.

19.11 SOCIAL SUSTAINABILITY, ACCESSIBILITY, AND VISITABILITY

Social sustainability is design that acknowledges that a person's abilities may change over his or her lifetime and allows their home and neighborhood to accommodate the changing needs. Principles of social sustainability should be applied throughout the development - to the buildings, landscapes and amenities. The design can provide full accessibility or can be easily adapted to meet changing needs. For people to fully participate in community life, in

homes they may visit, as well as in public spaces, the design shall meet the following standards/guidelines.

19.11.1 Goals

- To create socially equitable homes and communities that includes persons with a range of abilities.
- To minimize the economic and social costs of expensive renovations or the need to move from one's home.
- To avoid the structural barriers that can prevent older adults and persons with disabilities from leading independent lives and participating fully in their communities.

19.11.2 Accessible Dwelling Units

A minimum of 30 percent of the total dwelling units in the Development shall be Visitable in accordance with the criteria in Section 19.11.3.

19.11.3 Performance Criteria for Social Sustainability and Visitability

Dwellings in the NOD shall meet the following criteria for visitability unless explicitly waived by the Planning Board. Visitability increases the supply of accessible housing through the inclusion of three basic structural features at the time of home construction:

- A zero-step entrance;
- Doorways (both interior and exterior) with at least 32 inches of clear width, but shall not conflict with any requirement of the State Building Code;
- At least a half bath on the main floor of the home.

19.11.4 Additional Guideline

Reinforcement in the bathtub area of bathroom walls of all dwelling units to allow easy addition of grab bars is suggested.

19.12 OFF-STREET PARKING

Off-Street Parking shall, in general, adhere to the design and dimensional requirements of Section 5.1.0 Off-Street Parking; however, the minimum requirements for parking spaces shall be as follows:

Residential dwelling units:	2 spaces per unit
Visitor Parking:	1 space for every 3 residential dwelling units
Community Buildings:	3 spaces per 1000 square feet of gross floor area
Recreational uses:	To be determined during the review process. Where feasible the ITE Parking Generation Manual in effect during January 2009 shall be used.

19.13 ACCESS WAY CONSTRUCTION

Construction of access ways within the NOD shall conform to the applicable requirements of the Rules and Regulations Governing the Subdivision of Land. The Board may waive any requirements of the Rules and Regulations it deems to be unnecessary either to meet the intent of this by-law or to ensure public safety. The minimum paved width shall not be less than 20 feet and the minimum right-of-way width shall be 32 feet. A sidewalk on at least one side of each access way shall be required.

19.14 CONDOMINIUM ASSOCIATION

In cases of sale of individual units as condominiums, there shall be included in the deed a requirement obligating the purchasers to join in an organization of unit owners incorporated under Chapter 183A as amended, of the General Laws of the Commonwealth. If any unit is sold separately, there shall be a deed restriction that shall require mandatory membership in a homeowner's association, which shall satisfy all of the same requirements. No conveyance of an individual unit shall take place until this requirement has been satisfied. The organization shall file a written

report, including the names of officers, with the Town Clerk by February 15 of each year. Such report may be the same written report rendered to all unit owners referred to in G.L. c. 183A, § 10, par. D.

19.14.1 The Condominium or Homeowners Association (the "Association") shall provide for the maintenance of common open space, drainage facilities, community water and sewage disposal systems, the access ways, parking areas, recreational facilities or any other commonly held property or facility. The Association shall be a permanent agreement, either through a non-profit homeowner's and/or condominium association, and be recorded by a covenant or other agreement in the Bristol County Registry of Deeds before the conveyance of any unit or dwelling. Drafts of the proposed agreements shall be submitted to the Board with the development plan and shall be subject to approval by the Board and by Town Counsel, at the applicant's expense, as a condition of approval of the special permit relief.

- a. The agreement shall provide for the maintenance of all common land and facilities and specify the required methods of maintenance
- b. Membership in the Association shall be compulsory as a requirement of ownership of any lot or unit in the development.
- c. The agreement shall require compulsory assessment upon the individual owners for the cost of maintenance and the creation of a lien on any unit that is assessed for failure to pay such assessment.
- d. The agreement shall mandate that the Association shall not be dissolved without the consent of the Board; and any other specifications deemed necessary by the Board.
- e. The agreement shall provide that, in the event the Association or any successor organization, fails to maintain the common open space or any commonly owned facility in reasonable order and condition in accordance with the development plan, the Town shall

have the right but not the obligation enforce the provisions of the agreement and shall be provided with an easement that shall allow the Town and its agents to enter onto such portions of the land in the development as are necessary to perform the required maintenance in order to preserve the taxable values of the properties within the development and to prevent the common land or facility from becoming a hazard or nuisance. If the Town performs any maintenance or repair work, the Association and its members shall be jointly and severally liable to reimburse the Town for its costs and the cost, if unpaid, shall become a lien upon the properties in the development until said cost has been paid in full.

- f. The developer shall turn over such Association to the homeowners at such time as 51 percent of the units or lots have been leased or sold. The agreement shall provide that the developer shall bear the responsibility for installation and/or maintenance of common open space, community water and sewage disposal systems, private ways, recreational facilities or any other commonly held property or facility until (1) such time as these facilities are completed to the satisfaction of the Board and (2) at least 51 percent of the units or lots have been sold, at which time the homeowner's or condominium association shall bear the responsibility of maintaining these areas and facilities.

19.15 HOUSING AFFORDABILITY

19.15.1 Marketing Plan

Applicants under this by-law shall submit a marketing plan as outlined in **Section 13.8, Marketing Plan for Affordable Units**, of these By-Laws.

19.15.2 Required Affordable Units

Not less than 30% of the total dwelling units constructed in each development shall be

designated as Affordable Units as defined in Section 1.1.E of these By-Laws and shall be eligible for inclusion in the SHI maintained by DHCD and the applicant shall provide written evidence of such eligibility from DHCD. For purposes of calculating the number of units of affordable housing required within a development, any fraction of a unit shall be deemed to constitute a whole unit.

19.15.3 Design and Construction

Affordable Units shall be finished housing units; the exterior shall be comparable in initial construction, quality and exterior design to Market Rate Units in the development.

19.15.4 Affordable Housing Restrictions

Each Affordable Unit shall be subject to a permanent Affordable Housing Restriction which shall be approved by the Board and Town Counsel and duly recorded, before any Affordable Unit is sold, with the appropriate registry of deeds or district registry of the Land Court and which contains the following:

- a. Specification of the term of the Affordable Housing Restriction which shall be the maximum period allowed by law but not less than ninety-nine years;
- b. The name and address of an administering agency with a designation of its power to monitor and enforce the affordable housing restriction;
- c. Reference to a housing marketing and resident selection plan, to which the Affordable Unit is subject and which includes an affirmative fair housing marketing program, including public notice and a fair resident selection process. The housing marketing and selection plan for the Affordable Units may provide for preferences in resident selection to the extent consistent with applicable law; the plan shall designate the household size appropriate for a unit with respect to bedroom size and provide that the preference

for such Unit shall be given to a household of the appropriate size;

- d. A requirement that residents shall be selected at the initial sale or initial rental and upon all subsequent sales and rentals from a list of Eligible Households compiled in accordance with the housing marketing and selection plan;
- e. A description of the Affordable Unit by address and number of bedrooms;
- f. Reference to the formula pursuant to which rent of a rental unit or the maximum resale price of a homeownership shall be set;
- g. Designation of the priority of the Affordable Housing Restriction over other mortgages and restrictions;
- h. A requirement that only an Eligible Household may reside in an Affordable Unit and that notice of any lease or sublease of any Affordable Unit shall be given to the administering agency;
- i. Provision for effective monitoring and enforcement of the terms and provisions of the Affordable Housing Restriction by the administering agency;
- j. Provision that the restriction on an Affordable Homeownership Unit shall run in favor of the administering agency and the Town of Westport, and shall limit initial sale and resale to and occupancy by an Eligible Household;
- k. Provision that the restriction on an Affordable Rental Unit shall run in favor of the administering agency and The Town of Westport, and shall limit rental and occupancy to an Eligible Household;
- l. Provision that the owner (s) or manager(s) of Affordable Rental Unit(s) shall file an annual report to the administering agency in a form specified by that agency certifying compliance with the affordability provisions

of this By-Law, and containing such other information as may be reasonably requested in order to ensure affordability.

- m. A requirement that residents in Affordable Housing provide such information as the administering agency may reasonably request in order to ensure affordability.

19.15.5 Affordable Housing Administering Agency

An administering agency for affordable units, which may be the Westport Housing Authority, or other qualified housing entity shall be designated in the special permit. In a case where the administering agency cannot adequately carry out its administrative duties, such duties shall devolve to and thereafter be administered by a qualified housing entity designated by the Board or, in the absence of such timely designation, by an entity designated by the DHCD. In any event, such agency shall ensure the following:

- a. Prices of Affordable Homeownership Units are properly computed, rental amounts of Affordable Rental Units are properly computed;
- b. Income eligibility of households is properly and reliably determined;
- c. The housing marketing and resident selection plan conforms to all requirements and is properly administered;
- d. Sales and rentals are made to Eligible Households chosen in accordance with the housing marketing and resident selection plan with appropriate unit size for each household being properly determined and proper preference being given;
- e. Affordable Housing Restrictions meeting the requirements of this section are recorded with the proper registry of deeds;
- f. All payments to the Town of Westport and their assigns are made in a timely manner pursuant to the requirements of the deed

restrictions for the Market Rate Units.

19.15.6 Housing Marketing and Selection Plan

The housing marketing and selection plan shall make provision for payment by the Development applicant or successor in title of reasonable costs to the administering agency to develop, advertise, and maintain the list of Eligible Households, and to monitor and enforce compliance with affordability requirements. Such payment as determined by the SPGA shall not exceed one-half (1/2%) percent of the amount of rents received for each Affordable Rental Unit (payable annually by the Owner of said Affordable Rental Unit) and/or one (1%) percent of the sale or resale prices of Affordable Homeownership Units (payable upon each such sale or resale), as applicable.

19.15.7 Payment in Lieu of Eligible Buyer

The Board may allow a developer of non-rental housing units to make a cash payment to the Town through its Affordable Housing Trust Fund for each affordable low-or moderate-income unit, if after one-year's time, a buyer cannot be found for an affordable unit. The cash payment shall be equal either to (1) the difference between the fair market value for a typical market-rate housing unit in the proposed development, as determined by the Board, and the price of a housing unit affordable to a low- or moderate-income household; or (2) the difference the between the actual fair market price paid for the unit and the price of an affordable unit, whichever is greater.

19.16 DECISION

The Board may approve or approve with conditions an application for a NOD Special Permit, if the Board determines that the Development better promotes the objectives herein, than a conventional development would and that the Development is in compliance with applicable sections of the Rules and Regulations governing the Subdivision of Land in Westport, MA, Rules and Regulations of the Westport Planning Board for Site Plan Approval, and the Rules and Regulations of the Westport Planning Board for Inclusionary Housing Special Permits.

19.17 ISSUANCE OF OCCUPANCY PERMITS

The Building Inspector shall not issue an occupancy permit for a unit without prior receipt of evidence that all restrictions and covenants required as set forth hereunder have been duly recorded at the Registry of Deeds and that the low-and moderate-income units have been approved for listing by DHCD for Westport's SHI.

19.18 FURTHER CONDITIONS

No lot shown on a plan for which relief is granted under this section may be further subdivided, and a restrictive covenant imposing this condition shall be recorded against the subject land before any building permit issues and a note regarding this condition shall be placed on the approved plan and it shall be recorded as a condition of the special permit taking effect. Subsequent to granting relief, the Board may permit minor adjustments of lot lines within the development that do not result in the creation of additional lots. However, any change in overall density, street layout, or open space layout shall require a modification of the special permit and full public hearing, with notice.

(2009 ATM, Article 28)

ARTICLE 20

LOW IMPACT DEVELOPMENT (LID) SITE PLAN APPROVAL

20.1 PURPOSE

The purpose of this bylaw is to establish minimum requirements and controls to protect and safeguard the environment, natural resources, general health, safety, and welfare of the public residing in watersheds within the Town's jurisdiction from the adverse impacts of soil erosion, sedimentation, and stormwater runoff. This section seeks to meet that purpose through the following objectives:

- 20.1.1** To eliminate or reduce the adverse effects of soil erosion and sedimentation;
- 20.1.2** To minimize stormwater runoff from any development;
- 20.1.3** To minimize nonpoint source pollution caused by stormwater runoff from development;

20.1.4 To provide for groundwater recharge where appropriate; and

20.1.5 To ensure controls are in place to respond to objectives in Subsections 20.1.1 and 20.1.2 and that these controls are properly operated and maintained.

20.2 **APPLICABILITY**

This bylaw shall apply to all activities that result in a land disturbance activity of 40,000 sq. ft. of land, or that will disturb less than 40,000 sq. ft. of land but is part of a larger common plan of development or sale that will ultimately disturb equal to or greater than 40,000 sq. ft. of land. No person shall perform any activity that results in a land disturbance activity of 40,000 sq. ft. or more of land without site plan approval by the Planning Board, by majority vote, following review at a duly posted meeting, but without a formal public hearing, of soil erosion and sediment control plan and a stormwater management plan. Normal maintenance and/or improvement of land in agricultural or aquaculture use, as defined by the Wetland Protection Act Regulation 310 CMR 10.4, shall be exempt from this by-law. In addition, as authorized in the Phase II Small MS4 General Permit for Massachusetts, stormwater discharges resulting from the above activities that are subject to jurisdiction under the Wetland Protection Act and demonstrate compliance with the Massachusetts Stormwater Management Policy as reflected in an Order of Conditions or Request for Determination of Applicability (RDA) issued by the Town of Westport Conservation Commission shall be deemed to be in compliance with this bylaw.

20.3 **AUTHORITY**

This stormwater site plan review bylaw is adopted under the authority granted by the Home Rule Amendment of the Massachusetts Constitution, G.L. c.40 and G.L. c.40A, and the Federal Clean Water Act and applicable regulations, including 40 CFR 122.34.

20.4 **RESPONSIBILITY**

The Planning Board shall administer, implement and enforce this bylaw. The Planning Board may distribute plans to other boards, commissions, departments, and outside technical and legal consultants and agencies for their review and

recommendations.

20.5 DESIGN STANDARDS

The applicant shall submit a plan to the Planning Board that illustrates how the following LID site design standards were utilized to the maximum extent feasible and explains any site and financial constraints which limited application of items 1 through 10 below and how items 11 and 12 were considered for implementation:

- 20.5.1** Preservation of the site's natural features and environmentally sensitive areas such as wetlands, existing vegetation, slopes, drainage ways, permeable soils, flood plains, woodlands and soils to the greatest extent possible;
- 20.5.2** Minimization of grading and clearing;
- 20.5.3** Clustering of buildings and a reduction in size of building footprints;
- 20.5.4** Use of stormwater management components that provide filtration, treatment and infiltration such as vegetated areas that slow down runoff; maximizing infiltration and reducing contact with paved surfaces;
- 20.5.5** Creation of subwatersheds to treat and micromanage runoff in smaller, decentralized, innovative stormwater management techniques to treat and recharge stormwater close to the source;
- 20.5.6** Lengthen flow paths and maximize sheet flow;
- 20.5.7** Emphasis on simple, nonstructural, innovative, low-cost methods including open drainage systems, recharging of roof runoff, parking areas and/or roadways, to recharge on site as close to the source as possible.
- 20.5.8** A maintenance program including information on regular street and parking lot sweeping shall be provided to the Planning Board for approval;
- 20.5.9** Reduction of impervious surfaces wherever possible through alternative street design, such as omission of curbs and use of narrower streets, the use of porous pavement or permeable pavers, shared

driveways and through the use of shared parking areas;

20.5.10 Reduction of the heat island effect;

20.5.11 Use of vegetation in buffer strips and in rain filter runoff);

20.5.12. Techniques integrated into every part of site design to create a hydrologically functional lot or development site, including but not limited to the following:

A. Grass swales along roads;

B. Rain gardens;

C. Buffer areas;

D. Use of roof gardens where practicable;

E. Use of amended soils that will store, filter and infiltrate runoff;

F. Bioretention areas;

G. Use of rain barrels and other cisterns to provide additional stormwater storage;

H. Use of permeable pavement and/or pavers in driveways, overflow parking, outside sales areas, etc.

I. Use of native plants and grasses

20.6 **LID PLAN CONTENTS**

The LID Management Plan shall contain sufficient information for the Planning Board to evaluate the environmental impact, effectiveness, and acceptability of the site planning process and the measures proposed by the applicant for reducing adverse impacts from stormwater runoff. This plan shall be in accordance with the criteria established in these Bylaws and must be submitted with the stamp and signature of a Professional Engineer (PE) licensed in the Commonwealth of Massachusetts. The LID Management Plan shall fully describe the project in drawings, narrative, and calculations. It shall include:

20.6.1 Contact Information. The name, address, and

telephone number of all persons having a legal interest in the property and the tax reference number and parcel number of the property or properties affected;

- 20.6.2 A locus map;
- 20.6.3 Existing site plan (for comparison to 20.6.15 below);
- 20.6.4 The existing zoning, and land use at the site;
- 20.6.5 The proposed land use;
- 20.6.6 The location(s) of existing and proposed easements;
- 20.6.7 The location of existing and proposed utilities;
- 20.6.8 The site's existing & proposed topography with contours at 2-foot intervals,
- 20.6.9 The existing site hydrology (both groundwater recharge and surface runoff);
- 20.6.10 A description and delineation of existing stormwater conveyances, impoundments, wetlands, drinking water resource areas, shellfishing areas, swimming beaches or other critical environmental resource areas, on or adjacent to the site or into which stormwater flows;
- 20.6.11 A delineation of 100-year flood plains, if applicable;
- 20.6.12 Estimated seasonal high groundwater elevation in areas to be used for stormwater retention, detention, or infiltration;
- 20.6.13 The existing and proposed vegetation and ground surfaces with runoff coefficients for each;
- 20.6.14 A drainage area map showing pre and post construction watershed boundaries, drainage area and stormwater flow paths, including municipal drainage system flows;
- 20.6.15 A recharge area analysis that calculates pre-and post-project annual groundwater recharge rates on the parcel;

- 20.6.16** A description and drawings of all components of the proposed LID Management system including:
- A.** Locations, cross sections, and profiles of all brooks, streams, d rainage swales and their method of stabilization;
 - B.** All measures for the detention, retention or infiltration of water;
 - C.** Description of non-structural BMPs;
 - D.** All measures for the protection of water quality;
 - E.** The structural details for all components of the proposed drainage systems and LID Management facilities;
 - F.** Notes on drawings specifying materials to be used, construction specifications, and expected hydrology with supporting calculations;
 - G.** Proposed site plan including location of buildings or other structures, impervious surfaces, and drainage facilities, if applicable;
 - H.** Any other information requested by the Planning Board.
- 20.6.17** Hydrologic and hydraulic design calculations for the pre-development and post-development conditions for the design storms specified in this Bylaw. Such calculations shall include:
- A.** Description of the design storm frequency, intensity and duration;
 - B.** Time of concentration;
 - C.** Soil Runoff Curve Number (RCN) based on land use and soil hydrologic group;
 - D.** Peak runoff rates and total runoff volumes for each watershed area;
 - E.** Information on construction measures used to

maintain the infiltration capacity of the soil where any kind of infiltration is proposed;

- F.** Infiltration rates, where applicable;
- G.** Culvert capacities;
- H.** Flow velocities;
- I.** Data on the increase in rate and volume of runoff for the specified design storms; and
- J.** Documentation of sources for all computation methods and field test results.

20.6.18 Post-Development downstream analysis if deemed necessary by the Planning Board;

20.6.19 Soils Information from test pits performed at the location of proposed LID Management facilities, including but not limited to soil descriptions, depth to seasonal high groundwater, depth to bedrock, and percolation rates. Soils information will be based on site test pits logged by a Massachusetts Registered Soil Evaluator, or a Massachusetts Registered Professional Engineer;

20.6.20 Landscaping plan describing the woody and herbaceous vegetative stabilization and management techniques to be used within and adjacent to the stormwater practice.

20.7 OWNERS ASSOCIATION

As a condition of approval of a LID Management Plan the Applicant shall create and properly fund an Owners Association and all purchasers of land within the project shall be required to belong to the Owners Association. The Owners Association shall be responsible for the perpetual operations and maintenance of the components of the approved LID management Plan. The Owners Association shall maintain permanent ownership of any drainage basins or ponds in the subdivision, including all pipes and other appurtenant devices, and shall have the permanent responsibility of maintaining, repairing and replacing said drainage systems, as necessary. The Owners Association documents shall be reviewed and approved by the Planning Board, in consultation with Town Counsel, and the Owners Association shall have an

initial fund that is deemed satisfactory to the Planning Board, in consultation with the Planning Board's technical consultant. The Owners Association shall send correspondence to all members of the Association twice a year, once during March and once during September, to advise each member of the Association's duties and responsibilities to: (1) operate and maintain the components of the approved LID management Plan; and (2) maintain, repair and replace the drainage systems. At the same time, the Owners Association shall provide a written reminder to each individual member to maintain any portion of the systems on each member's property, including the mowing and clearing of drainage swales and berms.

20.8 CONNECTIONS TO MUNICIPAL SYSTEMS

There shall be no connections to the Town of Westport Municipal Storm Drain Systems (MS4)

20.9 PROMULGATION OF RULES AND REGULATIONS

The Planning Board may promulgate rules and regulations to effectuate the purpose of this bylaw. Failure by the Planning Board to promulgate such rules and regulations shall not have the effect of suspending or invalidating this bylaw.

20.10 INSPECTIONS, SUBMISSION OF FINAL PLANS, MAINTENANCE

20.10.1 The Planning Board, or designated agent, shall make inspections as hereinafter required and either shall approve that portion of the work completed in accordance with the approved plans or shall notify the owner or person responsible for the implementation of the plans wherein the work fails to comply with the approved soil erosion and sediment control plan, or the approved stormwater management plan as described in Planning Board's Rules and Regulations. Plans for grading, removal, stripping, excavating, and filling work approved by the Planning Board and shall be stored on site during the progress of the work. To obtain inspections, the permittee shall notify the Planning Board agent at least two working days before each of the following:

- A.** Installation of sediment and erosion control measures.
- B.** Start of construction.

- C. Completion of site clearing.
- D. Completion of rough grading.
- E. Installation of stormwater controls.
- F. Close of the construction season.
- G. Completion of final landscaping.

20.10.2 The person responsible for the implementation of the approved plans shall make regular inspections of all control measures in accordance with the inspection schedule outlined on the approved soil erosion and sediment control plan(s). The purpose of such inspections will be to determine the overall effectiveness of the control plan and the need for additional control measures. All inspections shall be documented in written form and submitted to the Planning Board Agent at the time interval specified in the approved permit.

20.10.3 The Planning Board, or designated agent, shall enter the property of the applicant as deemed necessary to make regular inspections to ensure the validity of the reports filed as noted above.

20.10.4 The applicant shall submit an "as-built" plan for the stormwater controls after the final construction is completed. The plan must show the final design and specifications of all stormwater management systems and must be prepared by a professional land surveyor.

20.10.5 An Operation and Maintenance plan (O&M Plan) is required at the time of application for all projects. The maintenance plan shall be designed to ensure compliance with the Permit and this Bylaw during all seasons and throughout the life of the system. The Operation and Maintenance Plan shall remain on file with the Planning Board and shall be an ongoing and enforceable requirement. The O&M Plan shall include:

- A. The name(s) of the owner(s) for all components of the system;
- B. A map showing the location of the systems and facilities including catch basins,

manholes/access lids, main, and stormwater devices;

C. Maintenance agreements that specify:

- a.** The names and addresses of the person(s) responsible for operation and maintenance;
- b.** The person(s) responsible for financing maintenance and emergency repairs;
- c.** An Inspection and Maintenance Schedule for all LID Management facilities including routine and non-routine maintenance tasks to be performed;
- d.** A list of easements with the purpose and location of each;
- e.** The signature(s) of the owner(s).

D. LID Management Easement(s)

- a.** LID Management easements shall be provided by the property owner(s) as necessary for:
 - 1.** Access for facility inspections and maintenance;
 - 2.** Preservation of stormwater runoff conveyance, infiltration, and detention areas and facilities, including flood routes for the 100-year storm event;
 - 3.** Direct maintenance access by heavy equipment to structures requiring regular maintenance.
- b.** The purpose of each easement shall be specified in the maintenance agreement signed by the property owner.
- c.** Stormwater Management easements are required for all areas used for off-site stormwater control, unless a waiver is granted by the Planning Board.

- d. Easements shall be recorded with the County Registry of Deeds prior to issuance of a Certificate of Completion by the Planning Board.

E. Changes to Operation and Maintenance Plans

- a. The owner(s) of the LID Management system shall notify the Planning Board of changes in ownership or assignment of financial responsibility.
- b. The maintenance schedule in the Maintenance Agreement may be amended to achieve the purposes of this Bylaw by mutual agreement of the Planning Board and the Responsible Parties. Amendments shall be in writing and signed by all Responsible Parties. Responsible Parties shall include owner(s), persons with financial responsibility, and persons with operational responsibility.

20.11 PROJECT CHANGE

The permittee, or his or her agent, shall notify the Planning Board in writing of any change or alteration of a land-disturbing activity authorized in either the soil erosion and sediment control plan or the stormwater management plan before any change or alteration occurs. If the Planning Board determines that the change or alteration is significant, based on the design requirements listed in this bylaw and accepted construction practices, the Planning Board may require that an amended soil erosion and sediment control plan and/or stormwater management plan application be filed.

If any change or deviation from these plans occurs during a project, the Planning Board may require the installation of interim measures before approving the change.

20.12 FEES

The appropriate application fee as established by the Planning Board shall accompany each application. Applicants shall pay review fees, as determined by the Planning Board, sufficient to cover any expenses connected with any public hearing, review of the soil erosion and sediment control plan, and site inspection.

20.13 APPEAL

The appeal of any decision of the Planning Board hereunder shall be made in accordance with the provisions of Mass. Gen. L. Ch. 40A or other such provision of the General Laws.

(2011 ATM, Article 36)

ARTICLE 21

DRIVEWAYS AND COMMON DRIVEWAYS

21.1 INTRODUCTION

In an effort to preserve, protect and enhance environmentally sensitive land that might otherwise be cleared, excavated, filled and/or covered with impervious surface this bylaw seeks to minimize negative impacts on community character and improve safety and emergency access. Common driveways may be allowed by Special Permit granted by the Planning Board in accordance with the provisions of this section. A Special Permit will not be required when the common driveway is approved as part of the definitive subdivision process. For existing common driveways: a Special Permit shall be required when alterations are proposed to the common driveway.

21.2.1 PURPOSE

The purpose of allowing access to no more than two (2) lots in any zoning district, except in an Open Space Residential Development, over a common driveway is:

- 21.2.1** To enhance public safety by reducing the number and frequency of points at which vehicles may enter upon the ways used by the public;
- 21.2.2** To preserve, protect, and enhance environmentally sensitive land, such as well discharge areas, wetlands and flood plains, by reducing the area of land that is cleared, excavated, filled and/or covered with impervious material;
- 21.2.3** To encourage the protection and preservation of significant features and vistas.

21.3 APPLICABILITY AND REQUIREMENTS

The Planning Board may grant a Special Permit for a Common

Driveways that serves no more than two (2) lots, provided that each lot shall have the required frontage on a public way or a way approved by the Planning Board. An application for a special permit shall include a site plan prepared by a registered engineer and registered land surveyor that provides satisfactory evidence that such Driveway or Common Driveway meets the following requirements:

21.3.1 The common portion of the common driveway shall not be in excess of five hundred (500) feet in length or as allowed by the Rules and Regulations;

21.3.2 Driveway/Curb Cut Spacing: Separation between access connections on all collectors and arterials shall be based on the posted speed limit in accordance with the following table:

<u>Posted Speed Limit (MPH)</u>	<u>Access Connection Spacing (Feet)</u>
20	85
25	105
30	125
35	150
40	185
45	230
50	275

21.3.3 The integrity of the edge of the public roadway pavement shall be protected and stormwater, sand, silt, mulch, and other debris shall be kept off of the road and out of town drainage systems.

21.3.4 Upon completion of the project, the applicant shall insure that the edge of the paved road is supported and not undermined. Any construction damage to the edge of town road shall be repaired by the applicant.

21.3.5 The radius of the driveway at the intersection of the street shall be designed to accommodate public safety & emergency vehicles.

21.3.6 Compliance with Emergency 911 requirements shall be maintained by the lots served by the common driveway. Permanent signs indicating the street

number address assigned to each lot served by the common driveway shall be installed within ten (10) feet of the intersection of the common driveway with the street, as well as within ten (10) feet of the intersection of an individual lot driveway with the common driveway. Numbered signs shall be placed in a manner so that they shall not be blocked during heavy snow pack;

- 21.3.7** The common driveway shall access the property over the frontage of either or both of the lots served by the driveway;
- 21.3.8** The applicant shall provide evidence to the Planning Board that the owners of the properties to be served by the common driveway have a deeded right to the common portions of the common driveway;
- 21.3.9** The common driveway shall meet the Secondary Road standard found in Table A of the Planning Board's Subdivision Rules & Regulations. The traveled way width requirement shall apply only to that portion of a driveway, which is used in common by more than one (1) lot. The maximum grade shall be 10%.
The minimum grade shall be 1%, with a 3% maximum grade within fifty (50) feet of its intersection with a street right of way. The driveway right-of-way (or easement for a single driveway) shall be calculated as the width of the traveled way, plus 4' on either side, or at least 20' for a common driveway.
- 21.3.10** No common driveway shall be accepted as a public road nor shall the Town under any circumstances be held liable for construction, reconstruction, maintenance, or snow removal on any common driveway.
- 21.3.11** The presence of a common driveway accessing an undevelopable lot does not imply that the lot is buildable.
- 21.3.12** A lot may be served by a common driveway only if the ownership of the lot provides mandatory membership in an owners' association responsible for annual and long term maintenance, including, but not limited to, removal of ice and snow from the common drive. The plan shall identify all land that is to be held and administered by the mandatory owners' association. It shall bear

restrictions satisfactory to the Planning Board and the Town Counsel, to run with the land, restricting the way shown to remain private property and not to be extended, and any other restrictions and easements that are required for common driveway development by these by-laws. It shall incorporate by reference the document(s), satisfactory to the Planning Board and the Town Counsel, creating the mandatory owners' association and setting forth restrictive covenants and easements binding present and future owners of all the lots served by the common driveway. Such document(s) shall include, at a minimum the following:

- a. Specific standards for the maintenance of all structures designed to be requirements of a common driveway Special Permit, including, but not limited to, the travel way, drainage system, and signage;
- b. Provisions for allocating responsibility for snow removal, maintenance, repair, or reconstruction of the common driveway, drainage system, and signage;
- c. Text of proposed easement including the metes and bounds description;
- d. A procedure for the resolution of disagreements. Said document(s) shall be recorded along with the site plan and public utility and drainage easements in the Bristol County Registry of Deeds and shall also be recited in and attached to every deed to every lot served by the common driveway.

21.4

ADOPTION OF RULES AND REGULATIONS

The Planning shall adopt an application form and rules and regulations in accordance with the provisions of this by-law. Rules and regulations shall specify the application process, type and number of required plans, and general requirements in order to assist the developer in complying with the intent of this by-law. Pursuant to M.G.L. Chapter 44, Section 53G, the Planning Board may accept and expend funds to engage peer review services, including engineering and legal services.

21.5

FEEES AND CONCURRENT HEARING PROCESS

The appropriate application fee as established by the Planning Board must accompany each application. Applicants shall pay review fees, as determined by the Planning Board, sufficient to cover any expenses connected with any public hearing and review of the plan.

21.6.1 WAIVER OF COMPLIANCE

The Planning Board, under this section, may waive strict compliance with dimensional requirements (for length and width) of this section, where such action is in the public interest and not inconsistent with the purpose and intent of the Zoning Act or this section.

21.7 APPEAL

The appeal of any decision of the Planning Board hereunder shall be made in accordance with the provisions of Mass. Gen. L. Ch. 40A, §17 or other such provision of the General Laws.

21.8 VALIDITY

The invalidity of any section or provision of this by-law shall not invalidate any other section or provision thereof.

(2011 ATM, Article 38)

TABLE OF USE REGULATIONS

Y = Allowed By Right
N = Prohibited

SPBA = Special Permit Board of Appeals
SPPB = Special Permit Planning Board
SPA-PB = Site Plan Approval Planning Board

<u>USES</u>	<u>RESIDENTIAL</u>	<u>BUSINESS</u>	<u>UNRESTRICTED</u>
ACCESSORY APARTMENT (see section 4.0.1.B.5.)	Y	Y	Y
ACCESSORY USE Included but not limited to: HOME OCCUPATION	Y	Y	Y
ADULT ENTERTAINMENT ESTABLISHMENT	N	N Except SPBA & SPA-PB in AEOD)	N
AGRICULTURAL, FORESTRY NURSERY, GARDENING, FARM,	Y	Y	Y
AMUSEMENT OR ASSEMBLY (see section 4.0.2.C)	N	SPBA/ SPA-PB	Y/SPA-PB
ASSISTED AND INDEPENDENT LIVING FACILITIES	SPPB	SPPB	SPPB

*AUTO BODY SHOP/AUTO REPAIR SHOP	N	Y/SPA-PB	Y/SPA-PB
*AUTO SALESROOM CLASS 1 & 2	N	Y/SPA-PB	Y/SPA-PB
*AUTO SALES, TRAILER SALES, OR FARM EQUIPMENT SALES	N	Y/SPA-PB	Y/SPA-PB
*AUTO SERVICE STATIONS	N	Y/SPA-PB	Y/SPA-PB
*AUTO STORAGE GARAGE	N	Y/SPA-PB	Y/SPA-PB
BANKS	N	Y/SPA-PB	Y/SPA-PB
<u>USES</u>	<u>RESIDENTIAL</u>	<u>BUSINESS</u>	<u>UNRESTRICTED</u>
BATH HOUSES, BEACH CLUBS, BOAT LANDINGS, WHARVES (see section 4.0.1.D)	Y/SPBA	Y/SPA-PB	Y/SPA-PB
BOAT YARDS FOR CONSTRUCTION, STORAGE, MAINTENANCE, REPAIR OF BOATS (see section 4.0.1.D)	SPBA	Y/SPA-PB	Y/SPA-PB
BED & BREAKFAST	SPBA	Y/SPA-PB	Y/SPA-PB
CLUB, PRIVATE: NOT FOR PROFIT (See section 4.0.1.D)	SPBA	Y/SPA-PB	Y/SPA-PB
CLUB, PROFIT (see section 4.0.2.C)	N	SPBA/ SPA-PB	Y SPA-PB
*COMMERCIAL & NON-COMMERCIAL KENNELS	N	Y	Y
CONVALESCENT HOMES	Y/SPA-PB	Y/SPA-PB	Y/SPA-PB
CONVERSION OF SINGLE-FAMILY INTO TWO-FAMILY STRUCTURE	SPBA	SPBA	SPBA

(see section 4.0.1.D)

DOGS: MAXIMUM 3 (see section 4.0.1.C)	N	Y	Y
DOGS: MAXIMUM 6	SPBA	Y	Y
DRIVE-THROUGH FACILITIES	N	SPPB	SPPB
DWELLING: ONE FAMILY	Y	Y	Y
DWELLING: TWO FAMILY	Y	Y	Y
<u>USES</u>	<u>RESIDENTIAL</u>	<u>BUSINESS</u>	<u>UNRESTRICTED</u>
DWELLING: MULTI-FAMILY	N	N	Y/SPA-PB
*EARTH REMOVAL/MINING	N	N	Y/SPA-PB
EDUCATIONAL USES	Y/SPA-PB	Y/SPA-PB	Y/SPA-PB
FLEA MARKET (see section 4.0.1.D)	N	Y/SPA-PB	Y/SPA-PB
GREENHOUSES FOR AGRICULTURAL USE ONLY	Y	Y	Y
GOLF COURSE: PUBLIC OR PRIVATE (see section 4.0.1.D)	SPBA/ SPA-PB	Y/SPA-PB	Y/SPA-PB
HOME OFFICE (See section 4.0.1.B for Standards and Limitations)	Y	Y	Y
HOSPITALS	Y/SPA-PB	Y/SPA-PB	Y/SPA-PB
HOTEL	N	Y/SPA-PB	Y/SPA-PB

INCLUSIONARY HOUSING	SPPB	SPPB	SPPB
JOB PRINTING	N	Y/SPA-PB	Y/SPA-PB
MISCELLANEOUS RETAIL OR SERVICE BUSINESS (see section 4.0.2.B)	N	Y/SPA-PB	Y/SPA-PB
MOBILE HOME PARK	N	N	N
MOTEL	N	Y	Y
METEOROLOGICAL TOWER (Met Tower)	Y	Y	Y
<u>USES</u>	<u>RESIDENTIAL</u>	<u>BUSINESS</u>	<u>UNRESTRICTED</u>
MUNICIPAL	Y/SPA-PB	Y/SPA-PB	Y/SPA-PB
NEWSPAPER	N	Y/SPA-PB	Y/SPA-PB
NURSING HOMES	Y/SPA-PB	Y/SPA-PB	Y/SPA-PB
OFFICES: BUSINESS OR PROFESSIONAL	N	Y/SPA-PB	Y/SPA-PB
OPEN SPACE RESIDENTIAL DEVELOPMENT	Y	Y	Y
OUTDOOR ADVERTISING WITH PERMIT	N	Y/SPA-PB	Y/SPA-PB
PUBLIC OR PRIVATE FACILITIES FOR AQUACULTURE (see section 4.0.1.D)	SPBA	SPBA	Y
PUBLIC UTILITY	N	Y/SPA-PB	Y/SPA-PB
RELIGIOUS USES	Y/SPA-PB	Y/SPA-PB	Y/SPA-PB
RESEARCH LABS	N	Y/SPA-PB	Y/SPA-PB

RESIDENT FISHERMEN SHUCKING	Y	Y	Y
RESTAURANTS	N	Y/SPA-PB	Y/SPA-PB
ROOM RENTAL/BOARDING FOR NOT MORE THAN FOUR PERSONS IN A DWELLING	Y	Y	Y
SANITARIUMS	Y/SPA-PB	Y/SPA-PB	Y/SPA-PB
SHARED WIND ENERGY FACILITIES	SPBA	SPBA	SPBA
<u>USES</u>	<u>RESIDENTIAL</u>	<u>BUSINESS</u>	<u>UNRESTRICTED</u>
SIGNS (ACCESSORY)	Y	Y	Y
TEMPORARY TRAILER	Y/SPA-PB	Y/SPA-PB	Y/SPA-PB
TIRE STORAGE YARDS	N	N	SPBA/ SPA-PB
TRADESMAN	Y/SPA-PB	Y/SPA-PB	Y/SPA-PB
WHOLESALE BUSINESSES (see section 4.0.2.B)	N	Y/SPA-PB	Y/SPA-PB
WIND ENERGY FACILITY, COMMERCIAL	N	SPBA/ SPA-PB	SPBA/ SPA-PB
WIND ENERGY FACILITY, COMMERCIAL OVER 140 FEET IN HEIGHT	N	SPBA SPA-PB	SPBA SPA-PB
WIND ENERGY FACILITY NON-COMMERCIAL	Y	Y	Y
WIND ENERGY FACILITY, NON-COMMERCIAL OVER			

140 FEET IN HEIGHT	N	SPBA	SPBA
WIND TURBINES, THREE OR MORE ON ONE PARCEL	SPBA	SPBA	SPBA
YARD SALES & AUCTIONS: 3 DAYS IN 1 MONTH 4 DAYS CALENDAR YEAR	Y	Y	Y

* - These uses have been recognized and allowed under Town licensing statutes.

(1990 ATM, Article 44; 1995 ATM, Article 42 [correction])(1996 ATM, Article 39 [correction])(1998 ATM, Article 64; 2000 ATM, Article 51; 2003 ATM, Article 48; 2005 ATM, Articles 6, 24, 29 [correction], & 30; 2006 ATM, Articles 4 & 9; 2007 ATM, Article 21)

APPENDIX A

TOWN OF WESTPORT ARTICLE XIV - ZONING HISTORICAL REFERENCES

NOTE: Historical References are Original By-Laws and Sections
The following pages contain those sections of the Westport Zoning By-Laws that have been repealed or amended by subsequent provisions. They are included for reference purposes only. The date appearing beside each entry is the date that the Article passed at the Town Meeting, NOT its effective date. The relevant effective dates must be obtained from the Town Clerk.

(Editorial Note): Prior to January 1, 1976, the effective date of Zoning By-Laws or amendments thereto was governed by M.G.L. Chapter 40 Section 32, which provided for approval by the Attorney General and publication prior to the By-Laws becoming effective. When Chapter 40A (the Zoning Enabling Act) Section 5 was amended, to take effect January 1, 1976, it carved out an exception to this rule from Chapter 40 which provided that the effective date of subsequent Zoning By-Laws and/or amendments thereto would be the date on which the provision passed the Town Meeting. If for any reason the provision was rejected by the Attorney General, the original provision would be reinstated as though no amendment or change had been voted).

1. The following three articles refer to the original zoning, which is of no current significance due to its total repeal in 1957. It is included for purposes of continuity and reference.

ARTICLE 32 - March 10, 1931:

(Authority of M.G.L. c. 40 sections 25 - 99) For the purpose set forth in General Laws, Chapter 40, Section 25 and all acts in amendment thereof, a district is hereby established to be known as Zone A in the locations and having the following boundaries:

a. That portion in South Westport known as Horseneck East Beach included within the limits extending from a point on the shore at the Dartmouth town line to a point 300 feet northerly of the East Beach Road in Westport, thence westerly on a line 300 feet north of and parallel to said East Beach Road to a point 300 feet easterly of Reed Road, thence south and parallel with Reed Road 300 feet and thence continuing in a straight line to the ocean and thence easterly to the point of beginning.

b. That portion in South Westport known as Horseneck West Beach included within the limits extending from a proposed street known as Ocean Avenue at the shore, thence northeasterly on said Ocean Avenue to its intersection with the East Beach Road and thence northeasterly to Reed Road, thence northwesterly and westerly on said Reed Road to a point 300 feet easterly of its intersection with the road running south from Westport Point, thence southerly on a line 300 feet easterly of said last named road to the shore, thence easterly and southeasterly on the ocean to said Ocean Avenue; excepting, however, so much of said territory as lies 300 feet east and west of Sixteenth Avenue so called between said Reed Road and the Ocean.

Sec. 2. In the Zone A district no building or structure or part thereof shall be constructed, altered, enlarged, reconstructed or used and no premises shall be used for:

a. Any industry, trade, manufacturing or commercial purpose, or for

b. Any purpose except the following specified uses:

1. Single or two-family detached house;

2. Boarding or lodging house;

3. Place of worship;

4. Public school or other public use;

5. Private club;

6. Tea room or gift shop in a dwelling;

7. Private garage for no more than two motor vehicles;

8. Parking spaces not less than 50 feet from the property line of another, 40 feet from mean high water shore line or 12 feet from the street line of any street or way;

9. Private bathhouses, not to exceed four separate compartments and covering an area of not more than 100 square feet, but no bathhouse shall be erected on the front half of any lot.

Sec. 3. In the Zone A district no building shall be located nearer than 2 feet from the street line of any street or way, 20 feet from mean high water shore line, or 6 feet from the side line of any adjoining lot, except that a private garage may be located within 2 feet of the side or rear lot line but shall not be located on the half of any lot adjacent to the shore or on the front half of any lot.

Sec. 4. No dwelling house shall be constructed on a lot whose area is less than 4,000 square feet provided, however, that where a lot has already been platted at the time of the adoption of these By-Laws and it appears that the owner thereof has no land adjacent thereto, such, lot may be occupied by a single-family dwelling providing it contains more than 3,000 square feet.

Sec. 5. No building or buildings shall be erected so as to occupy more than 50 percent of the area of any lot.

Sec. 6. No lot shall be reduced in area or its dimensions so that any structure thereon shall be within the limits prohibited by the By-Laws.

Sec. 7. Before any structure within the Zone A district shall be constructed, altered, enlarged, or reconstructed, the owner, or lessee or the agent of either or the architect or builder employed for the purpose, shall, except for ordinary repairs apply to the Selectmen for a permit and shall submit a detailed description of the location, purpose and construction proposed and such reasonable plans and information as the Selectmen may require.

Sec. 8. It shall be the duty of the Selectmen to approve said application within a reasonable time if the location, purpose and construction aforesaid shall be within the requirements of these By-Laws.

Sec. 9. No person shall commence the erection, alteration or reconstruction of any structure within the Zone A district without first receiving a permit in writing from the Selectmen.

Sec. 10. Whoever violates the provision of these Zoning Laws shall be liable for a penalty of not more than twenty (\$20.00) dollars for each violation thereof.

Sec. 11. Any person aggrieved by the refusal of the Selectmen to grant a permit in accordance with these By-Laws, may appeal therefrom and the Selectmen shall thereupon appoint a Board of Appeal consisting of three disinterested persons who shall review the proceedings and who are hereby empowered to grant or reject the permit requested.

ARTICLE 28 - March 15, 1949:

Voted: To amend that section of the Zoning Laws adopted by the Town

of Westport on March 10, 1931, and approved by the Attorney General on April 8, 1931, identified as sub-section "b" and substituting therefore a new sub-section "b", reading as follows:

That portion in South Westport known as Horseneck West Beach included within the limits extended from a proposed street known as Ocean Avenue at the shore, thence northeasterly on said Ocean Avenue to its intersection with the East Beach Road, and thence northeasterly to Reed Road, thence northwesterly and westerly on said Reed Road to its intersection with the road running south from Westport Point, thence southerly on said last named road to the shore, thence easterly and southeasterly on the ocean to said Ocean Avenue, excepting, however,

1. So much of said territory as lies 300 feet east and west of Sixteenth Avenue, so-called between said Reed Road and the ocean, and
2. So much of said territory as lies between the ocean and a line parallel with and 500 feet northerly of West Beach Road, so-called, west of a line parallel with and 300 feet west of Sixteenth Avenue, so-called, and east of the road running south from Westport Point. All of said new sub-section "b" as delineated on Plan of Horseneck Beach, Westport, Mass., Showing Zone Areas, dated January 31, 1949, Francis S. Borden, C.E. which plan is made a part hereof.

ARTICLE 36 - March 27, 1957:

A. A dwelling hereafter erected in any district shall be located on a lot having not less than the minimum requirements set forth in the table below, and no more than one dwelling shall be built upon any such lot. No existing lot shall be changed as to size or shape so as to result in the violation of the requirements set forth below.

<u>District</u>	<u>Minimum Lot Dimension</u>		<u>Maximum Height Building (a)</u>	
	<u>Area in Sq. Ft.(a)</u>	<u>Frontage in Ft.(a)</u>	<u>No. of Stories</u>	<u>Ft.</u>
Residence	(20,000)	(100)	2 ½	(40)
Business	(20,000)	(100)	2 ½	(40)

Industrial - No restrictions except minimum lot size of 20,000 sq. ft.

B. Lot Size Exceptions

The foregoing provisions of this section shall not prohibit the erection of a dwelling in any district upon a vacant lot having less than such minimum requirements as to area, frontage or width:

- (1) If such lot was shown on a plan on file in the Registry of Deeds on the effective date of this By-Law; or
- (2) If the owner of such lot on the effective date of this By-Law

owned no adjoining land available for use in connection with such lot.

ARTICLE 4 - June 6, 1957:

Voted: To repeal the Zoning By-Laws adopted on March 10, 1931 as amended March 15, 1949.

ARTICLE 38 - March 26, 1963:

Section 1. Purpose

In order to promote the health, safety, convenience and general welfare of its inhabitants, to lessen the danger from fire and congestion and to improve the town under the provisions of General Law, Chapter 40A, the use, construction, repair, alteration and height of buildings and structures and the use of premises in the Town are hereinafter provided.

3. Section II. Definitions

ARTICLE 38 - March 26, 1963:

6. Lot: A parcel of land having not less than the frontage, area, and width required under the provisions of this By-Law and the Building Regulations and having its principal frontage on a street or other means of access as may be determined in accordance with the provisions of the law to be adequate as a condition of the issuance of a building permit.

8. Street Line: The dividing line between the street right of way and the lot.

4. Section IIB. Location of Districts

ARTICLE 38 - March 26, 1963:

Location of Districts: Said districts are located and bounded as shown on a map entitled "Zoning Map of Westport, Massachusetts", dated June 6, 1957 and on file in the office of the Town Clerk. The Zoning Map, with all explanatory matter thereon is hereby made a part of this By-Law. The map is described as follows:

ARTICLE 25 - March 17, 1959:

Voted: To amend Section V-A of its Zoning By-Laws by requiring that

all lots shall have a minimum of 100 foot frontage.

ARTICLE 38 - March 26, 1963:

A. Amend by changing the word "Industrial" to read "Unrestricted."

ARTICLE 38 - March 26, 1963:

A. Non-conforming Uses

1) The lawful use of any structure or land existing at the time of the enactment or subsequent amendment of this By-Law may be continued although such structure or use does not conform with provisions of the By-Law.

2) Abandonment. A non-conforming use that has been abandoned two years shall not be re-established and any future use shall conform with this By-Law.

3) Changes. Once changed to a conforming use, no structure or land shall be permitted to revert to a non-conforming use.

ARTICLE 38 - March 26, 1963:

A. Enforcement

This By-Law shall be enforced by the Selectmen through the Building Inspector appointed by them. No building shall be built or altered and no use of land or a building shall be begun or changed without a permit having been issued by the Building Inspector. No building shall be occupied until a certificate of occupancy has been issued by the Building Inspector. Any person violating any of the provisions of this By-Law may be fined not more than twenty dollars for each offense. Each day that such violation continues shall constitute a separate offense.

B. Board of Appeals

There is hereby established a Board of Appeals of (3) members and (2) associate members to be appointed by the Selectmen, as provided in Chapter 40A of the General Laws, which shall act on all matters within its jurisdiction under this By-Law in the manner prescribed in Chapter 40A of the General Laws. The Board of Appeals shall have the following powers:

1). Appeals. To hear and decide an appeal taken by any person aggrieved by reason of his inability to obtain a permit from any administrative official under the provisions of Chapter 40A of the General Laws or by any officer or board of the Town, or by any person aggrieved by any order or decision of the Inspector of Buildings, or

other administrative official in violation of any provisions of Chapter 40A of the General Laws, or of this By-Law.

2). Special Permits. To grant a special permit for an exception as provided by sections of this By-Law when it shall have found that the use involved will not be detrimental to the established or future character of the neighborhood and town and subject to appropriate conditions or safeguards if deemed necessary.

3). Variances. To authorize upon appeal, or upon petition in cases where a particular use is sought for which no permit is required, with respect to a particular parcel of land or to an existing building thereon a variance from the terms of this By-Law where, owing to conditions especially affecting generally the zoning district in which it is located, a literal enforcement of the provisions of this By-Law would involve substantial hardship to the appellant and where desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of this By-Law, but not otherwise.

ARTICLE 38 - March 26, 1963:

C. Amendment. This By-Law may be amended from time to time at the annual or special town meeting in accordance with the provisions of Section 6 of Chapter 40A.

ARTICLE 50 - April 7, 1970:

A. A dwelling hereafter erected or placed in any district shall be located on a lot having not less than the minimum requirements set forth in the table below and no more than one dwelling shall be built upon any such lot. No existing lot shall be changed as to size or shape so as to result in the violation of the requirements set forth below.

<u>District</u>	<u>Minimum Lot Dimension</u>		<u>Maximum Height Building</u>	
	<u>Area in Sq. Ft.</u>	<u>Frontage in Ft.</u>	<u>No. of Stories</u>	<u>Ft.</u>
Residence	(40,000)	(100)	2 ½	(40)
Business	(40,000)	(100)	2 ½	(40)
Unrestricted	(40,000)	(100)	none	none

B. Lot Size Exceptions

The foregoing provisions of this section shall not prohibit the erection of a dwelling in any district upon a vacant lot having less than such minimum requirements as to area or frontage:

1) If such lot was shown on a plan or deed on file in the Registry of Deeds on July 11, 1957 and had a minimum of 30 feet frontage; or

2) If the owner of such lot on July 11, 1957 owned no adjoining land available for use in connection with such lot; or

3) If such lot has an area of at least 20,000 square feet and a frontage of at least 100 feet and is shown on a plan or deed on file in the Registry of Deeds on the effective date of this By-Law; or

4) If such lot, a plan of which was on file in the Registry of Deeds on July 11, 1957 and does not have the 30 feet minimum frontage required by V-B(1) and the owner of such lot on July 11, 1957 owned no adjoining land available for use in connection with such lot and an application is made and approved by the Appeals Board for a special permit to construct a single dwelling on a lot.

C. No dwelling for occupancy by two families shall hereafter be built, erected or located on a lot having an area of less than 40,000 square feet and 100 feet frontage. For each additional 20,000 square feet of area and 50 feet of frontage in the lot, the size of the dwelling may be increased to accommodate one additional family or dwelling unit.

7. Section VI. General Regulations

ARTICLE 16 - July 31, 1973:

Voted: To amend the Zoning By-Law of the Town of Westport by deleting the present non-conforming use and adopting the following new regulations:

A. Non-Conforming Uses

1) The lawful use of any structure or land existing at the time of the enactment or subsequent amendment of this By-Law may be continued although such structure or use does not conform with the regulations of the district in which it is located and allow the right to be sold to any equal or similar business.

2) Abandonment. A non-conforming use that has been abandoned four years shall not be re-established and any future use shall conform with this By-Law.

3) Changes. A non-conforming use may be changed so as to conform to this By-Law but once changed to a conforming use, no structure or land shall be permitted to revert to a non-conforming use. A non-conforming use may be changed to another use not substantially different in character or not more detrimental to the district upon approval by the Board of Appeals.

4) Alteration. A non-conforming structure may be altered or reconstructed or replaced.

5) Extension. A non-conforming use may be expanded in size or scope

of the activity within the confines of the lot used therefore and to the extent permitted by the building regulation By-Law.

6) Restoration. A non-conforming structure damaged or destroyed by fire or other causes may be repaired or rebuilt.

ARTICLE 36 - April 15, 1975:

Voted: To amend the Westport Zoning By-Law to increase the membership of the Board of Appeals to 5 persons, by deleting the number 3 in the first sentence of the first paragraph of Section VII-B Board of Appeals, and inserting in place thereof the number 5.

ARTICLE 11 - July 16, 1975:

Under Section III-B Location of Districts, add new paragraph "4. As Flood Plain: All portions of the Town included in Paragraphs 1,2, and 3 above and indicated as zones A7, A8, and A9, on Department of Housing and Urban Development maps, entitled Westport, Mass., FIA Flood Hazard Boundary Map #802 and #803, effective date August 12, 1970, with interim map revision effective July 1, 1974, lying below the elevations of 10 feet, 11 feet, and 12 feet above mean sea level for said Zones A7, A8, and A9 respectively. (copies of the aforesaid maps are on file in the Town Clerk's office)."

5. Section IV. Use Regulations

ARTICLE 11 - July 16, 1975:

After Section IV-C add IV-D. Flood Plain District

1. Any use permitted in the applicable residence, business, or unrestricted district in which the flood plain district is located, except no use may be permitted which when combined with all other existing and anticipated uses will increase the water surface elevation of the 100 year flood more than one foot at any point.

6. Section V. Intensity Regulations

ARTICLE 11 - July 16, 1975:

After Section VI-B add VI-C. Flood Plain Districts.

1) The following provisions apply to the areas located within Zones A7, A8, and A9 indicated on the flood hazard boundary maps, and having elevations below the base flood elevation, (100 year flood) which is 10 feet, 11 feet and 12 feet above mean sea level Zones A7, A8 and A9 respectively.

- 2) The ordinances concerning land use and control and other measures designed to reduce flood losses shall take precedence over any conflicting ordinances.
- 3) Building permits are required for new construction, substantial improvements and major repairs, and applications will be reviewed to determine that materials, equipment, and construction methods and practices conform with the Massachusetts State Building Code.
- 4) New construction or substantial improvements of residential structures shall have the lowest floor (including basement) elevated to or above the level of the 100-year flood.
- 5) New construction or substantial improvements of non-residential structures shall have the lowest floor (including basement) elevated to or above the 100 year flood, or together with attendant utility and sanitary facilities be flood-proofed up to the level of the 100-year flood.
- 6) Subdivision proposals and other proposed new developments will be reviewed to assure that all such proposals are consistent with the need to minimize flood damage; all public utilities and facilities are located, elevated, and constructed to minimize or eliminate flood damage; and adequate drainage is provided so as to reduce exposure to flood hazards.
- 7) New or replacement water supply systems and/or sanitary sewerage systems shall be designed and located to minimize infiltration into and discharge from the systems into flood waters, and shall conform to the Massachusetts State Sanitary Code.

ARTICLE 25 - April 4, 1978:

Section IV Paragraph A.1.h. "A permit, cost not to exceed two (\$2.00) dollars and valid for one year from date of issue will be required for Yard, Barn and Garage Sales." Penalty for failure to comply will result in a fine of not more than twenty (\$20.00) dollars.

ARTICLE 19 - September 13, 1983:

Off-Street Parking

- 1) Parking facilities off the street right-of-way for new construction shall be provided on the same lot as the building for each use within the district. Off-street parking shall be designed to prevent the necessity of any vehicles backing into a public way. No parking area shall be less than 5 feet from a road or property line. Each parking space shall have a usable area of at least 180 square feet and be served by two-way access lane at least 26 feet wide, except that if parking stalls are angled at 60 degrees or less, a one-way access

lane may be used with a minimum of 20 feet. The 26 foot two-way access lane shall not be required for dwellings of up to four units. In such cases a 12 foot one-way access is sufficient. The number of spaces required for each use shall be determined by the building inspector based upon the following criteria:

Use	<u>Minimum Required Space</u>
Residence - Housekeeping Rooms for roomers or boarders, apartments, multi-family	1.5 spaces per unit.
Customary home occupation or recognized profession	1 space for each home occupation or profession in addition to residential requirements
Retail stores, Financial Institutions, Consumer Services, Professional or Business offices and similar businesses	1 space for each 200 square feet floor space
Wholesale Showrooms and Operations	1 space for each 1,000 square feet plus one additional space for each 2 employees actively engaged at any one time.
Hotels and Motels	1 space per room and one space for every 3 seats in restaurants and meeting rooms and 1 space for each 2 employees.
Restaurants, Clubs, Theaters, Churches, or other places of public assembly	1 space for every 3 seats or 50 square feet of gross floor area and 1 space for every 2 employees.
Barber Shops and Beauty Parlors	3 spaces for each operator
Bowling Alleys and Tennis Courts	4 spaces for each alley or court.
For any use not specifically listed	1.5 spaces for each 1,000 square feet of floor space and 1 space for each 2 employees
Parking for Handicapped Persons shall be in accordance with Chapter 40, Section 21, as amended by Chapter 644 of Massachusetts General Laws.	

2) Other uses conducted for profit on premises within or without a building such as flea markets, auction houses, and fairs shall provide for off-street parking. The Board of Appeals may grant a special permit to any person or organization to allow for sporadic or intermittent use of a premises without complying with the requirements of this section.

3) Industrial and commercial buildings shall provide adequate parking, maneuvering and loading space on premises for freight and delivery trucks in addition to the minimum requirements for spaces listed in Article 19-1) above.

8. Section VII. Administration

ARTICLE 44 - April 3, 1990

This article changed the format and style of the Zoning By-Law but not the substance thereof.

ARTICLE 45 - April 3, 1990:

Voted: To amend the Zoning By-Law to change the present zoning district name of "Residence" of the Town Zoning By-Laws to "Residence/Agriculture" wherever the district name "Residence" appears.

2. Section I. Purpose

Article 28 - May 26, 2009

This article added the "Noquochoke Overlay District" to the Zoning By-Laws and amended the "Definitions" in Section 1.1.

Article 30 - May 26, 2009

This article amended section 8.3.2 - "Sewage Treatment Facilities".

Article 31 - May 26, 2009

This article deleted Zoning By-Law Article 6 in its entirety and substituted new language. It also amended the "Definitions" in Section 1.1." and amended "Section 3.1.D - Flood Plain District". The following is the old language for Article 6.

ARTICLE 6

SPECIAL REGULATIONS (Formerly Section VI C)

6.0 FLOOD PLAIN DISTRICTS

- 6.0.1** The following provisions apply to the Flood Plain District as defined in Section 3.1.D Flood Plain Districts of Article 3 of these By-Laws.

(2006 ATM, Article 8)

- 6.0.2** Ordinances concerning land use and control and other measures designed to reduce flood losses shall take precedence over any conflicting ordinances.

- 6.0.3** Building permits are required for new construction, substantial improvements and major repairs, and applications will be reviewed to determine that materials, equipment and construction methods and practices conform with the Massachusetts State Building Code. All permits required by any Town, State or Federal agency must be obtained or be in the process of being obtained at the time of building permit application.

6.0.4 **Base Flood Elevation And Floodway Data**

6.0.4.1 **Floodway Data**

In zones A, A1-30, and AE, along watercourses that have not had a regulatory floodway designated, the best available Federal, State, local, or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.

6.0.4.2 **Base Flood Elevation Data**

Base flood elevation data is required for subdivision proposals or other developments greater than 50 lots or 5 acres, whichever is the lesser, within unnumbered A zones.

6.0.5 **Notification Of Watercourse Alteration**

In a riverine situation, the Building

Inspector/Zoning Enforcement Officer shall notify the following of any alteration or relocation of a watercourse:

- Adjacent Municipalities
- Bordering States
- NFIP State Coordinator
Massachusetts Department of Conservation and Recreation
251 Causeway Street, Suite 600-700
Boston, MA 02114-2104
(Or successor entity at its then current address)
- NFIP Program Specialist
Federal Emergency Management Agency, Region I
99 High Street, 6th Floor
Boston, MA 02110
(Or successor entity at its then current address)

(2006 ATM, Article 8)

- 6.0.6** Subdivision proposals and other proposed new developments will be reviewed to assure that all such proposals are consistent with the need to minimize flood damage; all public utilities and facilities are located, elevated, and constructed to minimize or eliminate flood damage, and adequate drainage is provided so as to reduce exposure to flood hazards. Base flood elevation data shall be provided by the applicant for all proposals within the Flood Plain District.
- 6.0.7** New or replacement water supply systems and/or sanitary sewerage shall be designed and located to minimize or eliminate infiltration into and discharge from the systems into flood waters, and will conform to the Mass. State Sanitary Code.
- 6.0.8** All new constructions within Zones V1-30 of the Flood Insurance Rate Map shall be located landward of the reach of the mean high tide.
- 6.0.9** The Board of Appeals may issue a variance only upon a showing of good and sufficient cause;

determination that failure to grant the variance would result in exceptional hardship to the applicant; determination that granting of the variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud or victimization of the public or conflict with local laws; and determination that the variance is the minimum necessary, considering the flood hazard, to afford relief. The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance and will increase the risks to life and property.

6.0.10 Reference To Existing Regulations

The Floodplain District is established as an overlay district to all other districts. All development in the district, including structural and non-structural activities; whether permitted by right or by special permit must be in compliance with Chapter 131, Section 40 of the Massachusetts General Laws and with the following:

- Massachusetts State Building Code provisions addressing floodplain and coastal high hazard areas (currently 780 CMR 3107, "Flood Resistant Construction");
- Wetlands Protection Regulations, Department of Environmental Protection (DEP) (currently 310 CMR 10.00);
- Inland Wetlands Restriction, DEP (currently 310 CMR 13.00);
- Coastal Wetlands Restriction, DEP (currently 310 CMR 12.00);
- Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, DEP (currently 310 CMR 15, Title 5);

Any variances from the provisions and requirements of the above referenced state regulations may only

be granted in accordance with the required variance procedures of these state regulations.

(2006 ATM, Article 8)

6.0.11 All mobile homes to be placed within the Flood Zone shall have (i) stands or lots that are elevated on compacted fill or on pilings so that the lowest floor of the mobile home will be at or above the base flood level, (ii) adequate surface drainage and access for a hauler are provided, and (iii) in the instance of elevation of pilings, lots are large enough to permit steps, piling foundations are placed in stable soil no more than ten feet apart, and reinforcement is provided for piers more than six feet above ground level.

6.0.12 Man-made alteration of sand dunes within Zones V1-30, VE and V that would increase potential flood damage are prohibited)

Article 37 - June 8, 2010

This article deleted Zoning By-Law Article 13 in its entirety and substituted new language.

ARTICLE 13

INCLUSIONARY HOUSING

13.0 INCLUSIONARY HOUSING

13.1 PURPOSE AND INTENT

The purpose of this By-Law is to outline and implement a coherent set of policies and objectives for the development of affordable housing in tandem with on-going Town of Westport programs to promote a reasonable percentage of housing that is affordable to moderate-income buyers. It is intended that the affordable housing units that result from special permits issued under this By-Law be included on the Town's subsidized housing inventory, as kept by the Massachusetts Department of Housing and Community Development ("DHCD"). It is intended that this By-Law provide a mechanism to compensate for those decreases in the town's percentage of affordable housing that are directly caused by increases in the Town's overall housing stock.

13.2 DEFINITIONS

13.2.4Affordable Housing Unit: A dwelling unit that can be purchased at an annual cost that is deemed affordable for a household that is earning no more than 70% of the area median income as reported by the U.S. Department of Housing and Urban Development and/or DHCD.

13.2.2 Qualified Affordable Housing Unit Purchaser: An individual or family with a household income that does not exceed 80% of the area median income, with adjustments for household size, as reported by the most recent information from the United States Department of Housing and Urban Development and/or DHCD

13.3 APPLICABILITY

13.3.1 Division of Land: This By-Law shall apply to the division of land held in single ownership as of June 1, 2005 or anytime thereafter into eight (8) or more lots, whether said eight (8) or more lots are created at one time or are the accumulation of eight (8) or more lots created from said land held in single ownership as of June 1, 2005, and shall require a special permit under Article 2 of the Zoning By-Law and G.L. c. 40A, §9. A special permit shall be required for "conventional" or "grid" divisions allowed by M.G.L. Chapter 41, Section 81-L and Section 81-U, as well as those divisions of land that do not require subdivision approval per G.L. c. 41, §81P.

13.3.2 Multi-Family Dwelling Units and Duplexes: This By-Law shall apply to the construction of eight (8) or more multi-family dwelling units or duplexes, whether on one or more contiguous parcels in existence as of June 1, 2005, and shall require a special permit under Article 2 of the Zoning By-Law and G.L. c. 40A, §9.

13.3.3 Exemption: The provisions of Article 13.3.1 hereof shall not apply to the construction of eight (8) or more single-family dwelling units on individual lots, if said eight (8) or more lots were in existence as of June 1, 2005.

13.3.4 Administration: The Planning Board shall be the Special Permit Granting Authority for all special permits under this By-Law.

13.4**MANDATORY PROVISION OF AFFORDABLE UNITS**

The Special Permit Granting Authority shall, as a condition of approval of any development referred to in Article 13.3, require that the applicant for special permit approval comply with the obligation to provide affordable housing pursuant to this By-Law and more fully described in Article 13.5. Any special permit granted hereunder shall contain a condition that no construction of any of the proposed development may commence until the affordable units created thereby are eligible for inclusion on the Town's subsidized housing inventory.

13.5**PROVISION OF AFFORDABLE UNITS**

The Special Permit Granting Authority shall deny any application for a special permit for development if the applicant for special permit approval does not comply, at a minimum, with the following requirements for affordable units:

13.5.1 At least 10% of the units in a division of land or units in a multi-family or duplex unit development subject to this By-Law shall be established as affordable housing units in any one or combination of methods provided for below. Fractions of a lot or dwelling unit shall be rounded up to the nearest whole number, such that a development proposing eight (8) dwelling units shall require one affordable unit, a development proposing eleven (11) dwelling units shall require two (2) affordable units, and so on.

13.5.2 The affordable unit(s) shall be constructed or rehabilitated on: The locus property; or a locus different from the one subject to the special permit (see Article 13.9); or the applicant may offer and the Special Permit Granting Authority may accept any combination of the Article 13.5 requirements provided that in no event shall the total number of units or land area provided be less than ten (10%) percent of the total number of units/lots approved under the permit.

13.6**PROVISIONS APPLICABLE TO AFFORDABLE HOUSING UNITS ON- OR OFF-SITE**

13.6.1 Siting of affordable units: All affordable units

constructed or rehabilitated under this By-Law shall be situated so as not to be in less desirable locations than market-rate units in the development and shall, on average, be no less accessible to public amenities, such as open space, as the market-rate units.

13.6.2 Minimum design and construction standards for affordable units: Affordable housing units within market-rate developments shall be integrated with the rest of the development and shall be compatible in design, appearance, construction and quality of materials with other units.

13.6.3 Timing of construction or provision of affordable units or lots: The Special Permit Granting Authority may impose conditions on the special permit requiring construction of affordable housing according to a specified time table, so that affordable housing units shall be provided coincident to the development of market-rate units, but in no event shall the development of affordable units be delayed beyond the schedule noted below:

<u>Market-Rate Unit %</u>	<u>Affordable Housing Unit %</u>
Up to 30%	None required
30% plus 1 unit	At least 10%
Up to 50%	At least 30%
Up to 75%	At least 50%
75% plus 1 unit	At least 70%
UP to 90%	100%

Any fractions of an affordable unit shall be rounded up to a whole unit.

13.7 LOCAL PREFERENCE

To the extent permitted by law, the Special Permit Granting Authority may require the applicant to comply with local preference requirements, if any, as may be established by regulations promulgated hereunder.

13.8 MARKETING PLAN FOR AFFORDABLE UNITS

Applicants under this By-Law shall submit a marketing plan or other method approved by the Special Permit Granting Authority, which describes how the affordable units will be marketed to potential homebuyers. If applicable, this plan

shall include a description of the lottery or other process to be used for selecting buyers. The plan shall be in conformance to DHCD rules and regulations, and shall be subject to the prior review and approval of Town Counsel at the applicant's expense.

13.9 PROVISION OF AFFORDABLE HOUSING UNITS OFF-SITE

Subject to the approval of the Special Permit Granting Authority, an applicant subject to this By-Law may develop, construct or otherwise provide affordable units equivalent to those required by Article 13.5 off-site. All requirements of this By-Law that apply to on-site provision of affordable units, shall apply to provision of off-site affordable units. In addition, the location and design of the off-site units to be provided shall be approved by the Special Permit Granting Authority as an integral element of the special permit review and approval process.

13.10 PRESERVATION OF AFFORDABILITY; RESTRICTIONS ON RESALE

Each affordable unit created in accordance with this By-Law shall have the following limitations governing its resale. The purpose of these limitations is to preserve the long-term affordability of the unit and to ensure its continued availability for affordable income households. The deed restriction must be deemed acceptable to DHCD and Town Counsel prior to the issuance of any building or occupancy permits and shall be recorded at the Bristol County (S.D.) Registry of Deeds or the Land Court and shall be in force for the longest period allowed by law, unless the Planning Board determines that a shorter period of affordability will facilitate the development of affordable housing.

13.10.1 The Special Permit Granting Authority shall require, as a condition for special permit approval under this By-Law, that the deeds to the affordable housing unit contain a restriction requiring that any subsequent renting or leasing of said affordable housing unit shall not exceed an amount that is deemed affordable for a household earning no more than 70% of the area median income, as determined by the DHCD.

13.10.2 The Special Permit Granting Authority shall require, as a condition for special permit approval under this By-Law, that the applicant comply with the mandatory set-asides and accompanying deed restrictions on affordability.

13.11 REGULATIONS

The Special Permit Granting Authority may adopt regulations for the orderly administration of this By-Law.

(2005 ATM, Article 24)

Article 39 - May 25, 2011

This article amended the Zoning By-Laws by deleting the following Section 11.5.8 and replacing it with new language.

11.5.8 Stormwater Management

Drainage provisions shall be provided to ensure compliance with all local, state and federal requirements regarding stormwater management and shall be subject to review by the Planning Board's engineering consultant at the expense of the applicant. Drainage shall be designed so that the rate of run-off shall not be increased, groundwater recharge is maximized, surface and ground water quality is maintained or improved, and neighboring properties will not be adversely affected. The Board may require that existing drainage problems on/or adjacent to the site be mitigated as a condition of approval of the special permit under this section. Drainage facilities are not allowed in the required open space areas.

Article 40 - May 25, 2011

This article amended the Zoning By-Laws Article 15, Site Plan Approval, 15.4 Performance Standards by deleting the following Section 12 and replacing it with new language.

- 12.** Ensure compliance with the provisions of this Zoning Ordinance including, but not limited to, parking, loading, and signage.
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Article 41 - May 25, 2011

This article amended the Zoning By-Laws by deleting the following Section 13.2.3 and replacing it with new language.

- 13.2.3 Exemption:** The provisions of Article 13.3.1 hereof shall not apply to the construction of ten (10) or more single-family dwelling units on individual lots, if said ten (10) or more lots were in existence prior to June 1, 2005 nor to Assisted and Independent Living Facilities.

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 CHAPTER 6A. - AFFORDABLE HOUSING.* ** >> Article V. Requirements for For-Sale Projects. >>

Article V. Requirements for For-Sale Projects.

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Sec. 6A-5-10. Standards applicable to for-sale projects.

- (a) **Percentage of Affordable Units.** Any developer of a for-sale residential project of at least eight units shall make at least ten percent of the dwelling units affordable to and occupied by low income households. Per [Section 6A-3-20](#) of this chapter, the city council may determine the need to implement an additional requirement for ten percent of new for-sale units to be affordable to moderate income households, based on prevailing conditions in the housing market. As previously stated, such a finding would require an amendment to this chapter as well as an amendment to the Spring Lake specific plan and Spring Lake affordable housing plan.
- (b) **Term of Affordability.** For-sale units shall be affordable for the longest feasible time but not less than ten years. This affordability requirement of at least ten years for affordable for-sale units will be reset at each transfer of title upon re-sale to a qualified low income buyer, as outlined in [Section 6A-5-50](#) of this chapter.
- (c) **Requirements for Construction.**
 - (1) **Number of Bedrooms.**
 - (A) It is the goal that the affordable units "blend in" with the market rate units, which can be achieved through providing a variety of elevations and unit mixes within the residential project. Affordable for sale units may be smaller in square footage than the market rate units in a residential project that trigger the affordable housing obligation to a minimum unit living area of eight hundred fifty square feet. However, a mix of bedroom numbers and greater square footage among for sale homes shall be implemented whenever feasible in order to accommodate larger low-income households.

 Except as provided for elsewhere in this section, there shall be an average of three bedrooms provided per affordable unit, and the developer can provide more but not less than the average target, unless it can be clearly demonstrated that a different average is required in order for the units to be sold in the affordable marketplace.
 - (B) A developer of a for-sale residential project may request an exemption from the requirements of this subsection if, based upon substantial evidence and financial information, such a mixture would be infeasible to the satisfaction of the community development director.

- (2) Affordable units shall not be clustered but be dispersed throughout the residential project and be comparable in infrastructure (including sewer, water, and other utilities) and construction quality to the market-rate units. A cluster is considered to be four or more units adjacent to each other. Duplexes shall not be allowed as the only affordable units, unless all units in the development are duplexes. The developer shall submit, along with a map review fee, proposed locations for affordable units with the tentative map for approval by the city. If the developer desires to alter the approved locations of the affordable units, the requested alterations shall be submitted, along with a map review fee, with the final map. The map review fee shall be set by resolution of the city council, as amended from time to time.
 - (3) Affordable units must be visibly indistinguishable from the exterior in comparison with surrounding market-rate units. Affordable for-sale units may have different interior finishes and features than market-rate units so long as the interior features are durable, of good quality, and consistent with contemporary standards for new housing.
- (d) Criteria for Size and Design of Units to Meet Special Needs Housing.
- (1) For residential projects that include units that meet categories of special needs housing, the criteria for size and design of these units will be addressed by the city on a project-by-project basis as guided by the housing element, and based on any new information regarding increased need or demand for special needs housing as it becomes available from the census or other sources. The city will participate in securing funding for those projects that provide special needs housing units in a greater amount of special needs units than required by state or federal law.
 - (2) Builders of for-sale projects shall comply with applicable state and federal laws regarding accessible design features for persons with disabilities. Homebuyers of affordable units shall be offered "universal design" or "visitability" features to be incorporated into the construction of the unit by the builder. Such modifications shall be paid for by the homebuyer, independent of and in addition to the amount calculated as the affordable purchase price of the unit. Information on "universal design" and "visitability" building features is available from the community development department upon request.

(Ord. No. 1393, § 3 (part); Ord. No. 1487, § 3 (part).)

Sec. 6A-5-20. Possible alternatives to on-site construction of affordable for-sale units.

- (a) Possible Sale or Dedication of Land to Affordable Housing Developers.
 - (1) In a possible alternative to on-site construction of affordable units, the developer may propose to either sell or dedicate sufficient residential lots to a nonprofit developer to satisfy its affordable for-sale housing obligation if, to the city's satisfaction, it will enable the affordable housing developer to build the for-sale units and sell them at an affordable housing cost to low-income purchasers. Such an alternative proposal shall only be accepted if the community development director determines that the proposal furthers the purpose of this chapter.
 - (2) At the time of sale or dedication to the affordable housing developer, the residential lots shall be economically feasible to develop, of sufficient size to build the required number of affordable units, and physically suitable for development of the required affordable units. The residential lots shall also have appropriate general plan designation and zoning to accommodate the required number of dwelling units, be fully improved with infrastructure, frontage improvements (i.e., curb, gutter, walk), paved street access,

utility (i.e., water, gas, sewer, and electric) service connections stubbed to the property lines, and other such off-site improvements as may be necessary for development of the required affordable units or as required by the city. To exercise this option, the developer shall have a maximum of ninety days from the date that the residential lots are finished with the above improvements to either sell or dedicate the lots to an affordable housing developer.

(b) Land Dedication Option.

- (1) If a developer provides substantial evidence to prove that it is not feasible to develop the required affordable units on-site at a residential project, that developer may make an irrevocable offer of sufficient land within the city to satisfy the affordability requirements of this chapter. The dedicated site shall be economically feasible to develop, of sufficient size to build the required number of affordable units, and physically suitable for development of the required affordable units prior to dedication of the land.
- (2) The dedicated site shall also have appropriate general plan designation and zoning to accommodate the required number of units, be fully improved with infrastructure, frontage improvements (i.e., curb, gutter, walk), paved street access, utility (i.e., water, gas, sewer, and electric) service connections stubbed to the property lines, and other such off-site improvements as may be necessary for development of the required affordable units or by the city. The city may approve, conditionally approve, or reject such offer of dedication of any specific property. If the city rejects such offer of land dedication, the developer or its designee shall be required to meet the affordable housing obligations by other means set forth in this chapter.

(c) Development of Dedicated Land.

- (1) The dedication of land for affordable for-sale lots must result in the development of affordable for-sale units and not multifamily rental units.
- (2) Within one year from the date of conveyance of the dedicated land to the city, the city shall determine, at its discretion, whether the dedicated land will be:
 - (A) Developed by the city to produce the required affordable units; or
 - (B) Conveyed to an affordable housing developer or other third party who shall enter into an agreement with the city to produce such affordable units.

(d) In-Lieu Fees.

- (1) For for-sale residential projects of less than fifty units where the city council determines that it is not feasible or suitable for the for-sale residential project to have on-site affordable units, the city and developer may agree to a contribution of in-lieu fees to satisfy the developer's affordable housing obligation. Only the city may initiate this in-lieu fee option and only where it is demonstrated based on substantial evidence that there is no feasible alternative.
- (2) At the time of tentative map approval, if applicable, the city will provide the developer with an estimate of the in-lieu fees for the residential project. This in-lieu fee calculation at the time of tentative map is only an estimate and is subject to revision and verification at the time of construction, as the estimated sales price of units in the residential project at the tentative map stage may change by the time the project is actually built.
- (3) The in-lieu fee for each affordable unit for which the developer is responsible under this provision shall be sufficient to make up the gap between: (i) the affordable purchase price for a low-income household, and (ii) the market value as determined by an appraisal (i.e., the "affordability gap"), plus a fee for administration of the city's inclusionary housing program. The appraisal shall be completed no earlier than six months prior to the calculation of the in-lieu fee. The administration fee shall be

assessed per unit of the residential project, and shall be based on an appropriate percentage of the "affordability gap" for affordable units. The in-lieu fee for a residential project shall be determined using the following methodology:

- (A) The market value as determined by an appraisal - (minus) the affordable purchase price of a low-income household for the residential project. This amount determines the "affordability gap."
- (B) Calculate the inclusionary unit amount for the residential project at ten percent of the total (fractions of a whole unit shall be rounded up).
- (C) Multiply the "affordability gap" by the number of inclusionary units required for the residential project.
- (4) The product of this calculation plus the administration fee per unit equals the in-lieu fee to be charged for the residential project.
- (5) An example of an in-lieu fee calculation for a twenty-unit for-sale single-family residential project is as follows:

Market value as determined by an appraisal	= \$250,000
Affordable purchase price for low-income household	= \$150,000
Affordability Gap	= \$100,000
Inclusionary unit requirement	= 2 units (10% of 20 units)
\$100,000 Affordability Gap × (times) 2 units	= \$200,000
\$200,000 + administrative fee	= in-lieu fee for the residential project

- (6) If the city determines that the developer may contribute in-lieu fees, the developer must pay such fees as a lump sum prior to the issuance of the first building permit for the residential project. No building permit or certificate of occupancy shall be issued by the city until the developer provides written proof of the payment of all in-lieu fees.

(Ord. No. 1393, § 3 (part); Ord. No. 1487, § 3 (part).)

Sec. 6A-5-30. Procedure for sale of affordable units.

- (a) Initial Estimate of Affordable Purchase Prices. Prior to entering into an inclusionary housing agreement, at the request of the developer of a for-sale residential project, the community development department will assist developers in estimating the calculations of maximum affordable purchase prices based on the assumptions provided in this section. These estimations shall only be for the purpose of projecting the feasibility of the project and shall not be binding, as prevailing conditions in the housing market and fluctuations in interest rates may affect the final calculation of affordable purchase prices. The timing and procedure for final calculation of affordable purchase prices shall occur pursuant to the provisions of this section.
- (b) Method for Sale of Affordable Units. The method for the sale of affordable units is shown in this subsection. The community development department shall review these assumptions and procedures annually and make revisions as necessary:
 - (1) Units Appraised at Fair Market Value. At the time that the unit will be marketed and made available for sale, the fair market value of the unit will be determined. This determination will be made by a qualified appraiser who will be selected by the community development director and paid for by the developer.
 - (2) Calculation of Affordable Maximum First Mortgage. The sale of affordable units will be

implemented by a "silent second" mortgage program by the city. After the fair market value of the unit has been determined, the city will calculate the affordable maximum first mortgage amount for a qualified low income purchaser of the unit. The following procedure will be used for determining the affordable maximum first mortgage amount:

- (A) Determine the family size appropriate to the unit. For purposes of this calculation, "adjusted for family size appropriate to the unit" means adjusted for a household of one person in the case of a studio unit, two persons in the case of a one-bedroom unit, three persons in the case of a two-bedroom unit, four persons in the case of a three-bedroom unit, five persons in the case of a four-bedroom unit and six persons in the case of a five-bedroom unit.
 - (B) Determine the household income available for the affordable maximum first mortgage calculation for a low income household based on the appropriate household size using the current HUD area median income figures for Yolo County. The calculation of available household income should be based on eighty percent of area median income for the appropriate household size.
 - (C) Calculate the amount of income available for housing costs by multiplying the income figure by thirty percent. For the purpose of determining the affordable purchase price, the cost of utilities, property taxes, insurance, primary mortgage insurance, maintenance and repair costs, and like expenses are not required to be included in the calculation. Homeowners' association dues may be included in the calculation of affordable purchase price if the community development department determines that such costs would place a substantial burden on the low income homeowners' ability to purchase a home and make monthly mortgage payments.
- (3) Limitation of Down Payment Requirement. For purposes of this calculation, required down payments for low income purchasers shall be limited to no more than five percent of the purchase price. The developer or seller may not require a buyer to make a larger down payment but a buyer may elect to make a larger down payment in order to reduce the amount of the first mortgage. This limit to the down payment requirement is intended to provide greater flexibility for low income homebuyers who might find it difficult to provide a higher down payment amount.
- (4) Calculation of "Silent Second" and Regulatory Agreement Equity Share. The "silent second" shall be in the amount of one thousand dollars. A note and deed of trust, or other appropriate document, securing the silent second will be recorded and assigned to the city at the time of sale of each affordable unit. The promissory note and deed of trust, or other designated document, will remain a lien against the property, subordinate to the first mortgage. This note will have a thirty-year due date which can be extended by the community development director. The regulatory agreement recorded against the property shall include an equity share baseline in the amount of the difference between ninety-five percent of the purchase price (or purchase price minus down payment amount) and the amount of the affordable maximum first mortgage. The equity share shall be triggered and calculated at the sale of the affordable unit to a non-qualified purchaser or at a non-affordable price.
- (c) Payoff of the Silent Second and Regulatory Agreement Equity Share. The silent second may not be prepaid during its first ten years, as long as the low-income purchaser occupies the unit as their primary residence during this period. The amount due to the city under the equity share provision of the regulatory agreement at the eventual payoff of the silent second or the sale of the affordable unit to a non-qualified purchaser or at a non-affordable price shall be the amount which bears the equal ratio to the fair market value at the time the silent second is paid off as the initial value that the equity share baseline had in relation to the original fair market

sales price. For example, if the original sales price was two hundred thousand dollars and the original equity share baseline was fifty thousand dollars, the ratio would be twenty-five percent. If the fair market value at the time of payoff were four hundred thousand dollars, the amount due the city would be one hundred thousand dollars, or twenty-five percent of four hundred thousand dollars. In another case, if the property rose in value to two hundred fifty thousand dollars, the twenty-five percent ratio would dictate the payoff amount to the city to be sixty-two thousand five hundred dollars.

- (d) **Affordable Housing Fund.** Funds received by the city through payoffs of equity share provisions of regulatory agreements will be deposited into the city's affordable housing fund. These funds may be used at the discretion of the community development director to make additional affordable housing loans to income-qualified purchasers to facilitate the purchase of homes, to subsidize affordable multifamily projects, or for any other use to promote the development of affordable housing within the city of Woodland. Up to ten percent of each year's income from the affordable housing fund may be used for administration and ongoing monitoring of loans made from the fund.

(Ord. No. 1393, § 3 (part); Ord. No. 1487, § 3 (part).)

Sec. 6A-5-40. Homebuyer eligibility requirements for affordable units.

- (a) **Maximum Income Limitation.** Low-income households purchasing affordable units shall have incomes that do not exceed eighty percent of the current area median income for Yolo County as adjusted for household size. In the event that the developer or owner is unable to locate a qualified low-income household purchaser within ninety days, the city shall market for sixty days to households with incomes up to one hundred percent of the area median income for Yolo County as adjusted for household size. If no qualified purchaser has been identified, the city shall then market for sixty days to households with incomes up to one hundred twenty percent of the area median income for Yolo County as adjusted for household size.
- (b) **Primary Residence Certification.** Purchasers must certify that the home will be used as a primary residence.

(Ord. No. 1393, § 3 (part); Ord. No. 1487, § 3 (part).)

Sec. 6A-5-50. Resale requirements for affordable units.

- (a) **Conditions of Owner-Occupancy Hardship.**
 - (1) For so long as the qualified purchaser (owner) owns the unit, the unit will be occupied solely by the owner and the owner's immediate family as the owner's principal place of residency. Notwithstanding the foregoing, however, the community development director may authorize the owner to rent-out the affordable unit, for a cumulative period not to exceed one year, if the owner establishes to the community development director's reasonable satisfaction that the owner-occupancy requirement would cause hardship to the owner because of:
 - (A) Divorce or separation of the owner(s);
 - (B) The extended absence from the affordable unit by the owner because of the serious illness or disability of the owner or a member of the owner's household or immediate family;
 - (C) Absolute necessity for immediate relocation of the owner from the greater Sacramento area for purposes for the owners' employment; or
 - (D) The owner's loss of employment.
 - (2) The purpose of the foregoing limited exceptions to the owner-occupancy requirement is

to allow the owner to recover from a temporary inability to occupy the affordable unit or to provide for the orderly disposition of the unit in cases of hardship, and is not intended to permit long-term rental of the unit. For these reasons, the term "hardship" shall be narrowly construed and a condition of hardship shall be considered to exist for the minimum possible time.

- (b) Procedure for Resale of the Affordable Dwelling Unit. In order to maintain the affordability of the for-sale affordable units the city shall impose the following resale conditions. No for-sale affordable units shall be offered for resale or resold other than in the manner provided herein until the owner or purchaser has owned the house for ten years or longer:
- (1) Prior to advertising the availability of the for-sale affordable unit or otherwise offering the unit for sale, the owner shall provide the city with a notice of owner's intent to sell the unit. The notice shall indicate the location of the unit and the number of bedrooms contained in the unit. The notice shall provide the city a period of thirty calendar days after receipt of such notice (resale marketing period) to either:
 - (A) Provide the owner with an active and current list of interested and qualified purchasers; or
 - (B) Determine that no interested and qualified purchaser is available.
 - (2) Following the receipt of such notice, the city shall either complete or require the owner to have completed an appraisal report to determine the fair market value of the unit. This appraised value will be used by the city to determine the seller's equity share provision obligation, equaling the amount which bears the same ratio to the fair market value at the time the note is paid off as the initial value that the equity share baseline had in relation to the original fair market sales price. The city will also use the appraisal of the affordable unit to determine the amount of subsidy in the form of the assumed and possibly increased equity share provision that will be required by the subsequent qualified purchaser of the affordable unit.
 - (3) Upon receipt of the notice of owner's intent to sell, the city shall also provide the owner with a disclosure form that must be completed by a prospective qualified purchaser and returned to the city. The primary purposes of the disclosure form shall be to:
 - (A) Provide the city with information that the city will need to confirm that the prospective purchaser of the unit is a qualified purchaser; and
 - (B) Ensure that the prospective purchaser of the unit is aware of the owner-occupancy and resale restrictions applicable to the affordable unit.
 - (4) Within three days after executing any contract or agreement for sale of the affordable unit, the owner shall deliver to the city a copy of the contract or agreement, together with the completed and fully executed disclosure form and evidence supporting the prospective purchaser's gross income as shown on the disclosure form. The proposed sale shall be deemed approved unless the city, within ten days after receipt of such information, provides notice to the owner either that:
 - (A) The proposed sale does not comply with the provisions of this chapter; or
 - (B) Additional information is required.

If the proposed sale is disapproved or if the city determines that additional information is required, the notification shall be accompanied by a statement of the reason(s) for that decision.
- (c) Resale to a Qualified Purchaser.
- (1) Each qualified purchaser shall be required to purchase the affordable unit with cash, a mortgage secured by a first deed of trust on the affordable unit, or a combination of the two.

- (2) At close of escrow the owner shall assign, and the qualified purchaser shall assume, the note, or other applicable document securing the city's silent second subsidy on the property. The ten-year occupancy requirement and restrictions on re-sale applied to the original qualified purchaser of the affordable unit shall be reset to the date the note or applicable document is assumed by the subsequent qualified purchaser. The subsequent qualified purchaser shall enter into a regulatory agreement with the city which shall be recorded against the property.
- (3) The city may provide an additional subsidy (if available) to increase the amount of the equity share provision of the regulatory agreement in order to allow the qualified purchaser to purchase the unit (i.e., increase the percentage of the purchase price which is represented by the equity share baseline).
- (4) The city shall subordinate its lien to any commercial lender providing a loan to enable the qualified purchaser to purchase the affordable unit, providing the amount of such loan does not exceed the purchase price for the affordable unit plus the qualified purchaser's actual share of closing costs and other related expenses.

(Ord. No. 1393, § 3 (part); Ord. No. 1487, § 3 (part).)

Sec. 6A-5-60. Limited exceptions to resale requirements.

(a) Inability to Identify a Qualified Purchaser.

- (1) In the event the owner or the city is unable to identify a qualified purchaser who is able to purchase the unit within the resale marketing period in compliance with the sales timelines of this chapter and the regulatory agreement, the city shall have the right to purchase the unit at the affordable purchase price. If the city decides not to purchase the unit, the owner may, with the prior written consent of the city, sell the unit to a non-qualified purchaser without regard to the purchaser's income. The owner's request to the city to sell to a non-qualified purchaser shall be accompanied by evidence establishing that the owner has actively and in good faith attempted to identify a qualified purchaser for the unit throughout the resale marketing period using affirmative marketing measures. "Affirmative marketing" means that the owner shall have continuously listed the property on the multiple listing service and shall have acted in good faith in responding to inquiries and offers from qualified purchasers.
- (2) In the event of an approved resale to a non-qualified purchaser due to the seller's and the city's inability to identify a qualified purchaser within the ten-year occupancy requirement, the seller shall be required to pay off the equity share provision of the regulatory agreement to the city at the close of escrow. The amount due to the city shall be the amount which bears the equal ratio to the fair market value at the time the equity share provision is paid off as the initial value that the equity share baseline had in relation to the original fair market sales price.

(b) Resale Necessitated by Hardship.

- (1) The owner may sell the unit to a non-qualified purchaser during the ten-year affordability period and pay off the equity share provision of the regulatory agreement to the city in full if the community development director reasonably determines that the sale of the unit to a non-qualified purchaser is necessary due to circumstances of hardship, or "excluded transfers," which may include:
 - (A) Financial hardship causing risk of default of the owner's first mortgage;
 - (B) A transfer resulting from the death of the owner;
 - (C) A transfer to the owner and his or her spouse as joint tenants;
 - (D) A transfer resulting from a decree of dissolution of marriage or legal separation

or from a property settlement agreement incident to such decree.

- (2) No excluded transfer shall be effective unless the city has received a written request to approve the excluded transfer not less than thirty days prior to the proposed date of transfer. Any such request shall be accompanied by documentation supporting the basis for the excluded transfer.
 - (3) In the event of an approved resale to a non-qualified purchaser necessitated by the seller's circumstance of hardship within the ten-year occupancy requirement, the seller shall be required to pay off the equity share provision of the regulatory agreement to the city at the close of escrow. As previously stated, the amount due to the city shall be the amount which bears the equal ratio to the fair market value at the time the equity share provision is paid off as the initial value that the equity share baseline had in relation to the original fair market sales price.
 - (4) The city may record a default notice on any affordable unit. In the event of default, the city, in its discretion, may purchase the unit. In the event the city purchases an affordable unit pursuant to this subsection or subsection (a)(1), the city shall take reasonable steps necessary to maintain the affordability of the unit and identify a qualified purchaser. The city shall not maintain ownership and rent the affordable unit.
- (c) Resale after Close of Ten-Year Occupancy Requirement.
- (1) The resale restrictions for affordable units shall be removed after a qualified purchaser has occupied the unit as their primary residence for at least ten years. However, the silent second note will remain with the property secured by the deed of trust or other applicable document until either: (A) the unit is sold; or (B) the silent second becomes amortized and payable after thirty years per the provisions of this chapter, unless extended by the community development director.
 - (2) In the event that the affordable unit is resold at fair market value, the equity share provision of the regulatory agreement is due in full at the close of escrow. Again, the amount due to the city shall be the amount which bears the equal ratio to the fair market value at the time the equity share provision is paid off as the initial value that the equity share baseline had in relation to the original fair market sales price.

(Ord. No. 1393, § 3 (part); Ord. No. 1487, § 3 (part).)

Sec. 6A-5-70. Monitoring and compliance requirements for for-sale units.

Single-Family Residential Project Monitoring Requirements. Affordable for-sale units will be monitored to make sure that the owners are complying with the occupancy requirement and are not subleasing the property. Certified or return-receipt mailings will be sent to the owners of affordable for-sale units at least once every two years with a form requesting the required certifications. In addition, the mailing should restate the restrictions regarding sale or refinancing of the property.

(Ord. No. 1393, § 3 (part).)