

DRAFT 10.28.2021 – Residential Development Bylaw

Amendment to §135-3.4, Table 1, Permitted Uses and Development Standards

	GC	RO	RS	RT	CN	CRS	CS	CB	CLO	CRO	CM	CSX
A.1.05 Balanced housing development, public benefit development, Residential use sensitive development (*by-right alternative option)	N	<u>SPSP*</u>	<u>SPSP*</u>	<u>SPSP*</u>	N	N	N	N	N	N	N	N

Amendment to §135-6.9, Special Permit Residential Developments

6.9 SPECIAL PERMIT RESIDENTIAL DEVELOPMENTS.

6.9.1 Purpose.

Residential Development (RD) is a series of residential options that can be utilized as an alternative to the conventional definitive subdivision. The RD encourages flexibility and creativity by reducing dimensional standards to preserve historic and sensitive natural resources, provide a diversity of housing options, and encourage efficient construction patterns to encourage a neighborhood.

The RD establishes two development options that allow projects to meet the intent of this section. Both options require an affordability component that is in addition to the allowed market rate units. The two options include:

1. A Site Sensitive Development (SSD) through a ~~is a special permit process that allows for cluster development but the same number of market-rate structures permitted by a conventional subdivision.~~
2. An Alternative Neighborhood Residential Development (ARD) through a ~~is a site plan review process that allows up to double the number of market-rate units permitted by a conventional subdivision.~~

~~This section~~The RD intends to: ~~is intended~~

1. Support a walkable neighborhood;
2. Repurpose and preserve historically or architecturally significant buildings or places;
3. Encourage a reduction in lot area to encourage units between 1,500 and 2,500sf if Unit Floor Area;
4. Create affordable units as an add on to the market rate units;
5. Establish a straightforward permitting process within 90 days or less; and
6. Offer a diversity of housing options.

- Ensure that the development of multiple dwellings does not detract from the livability, scale, character or economic value of existing residential neighborhoods;
 - Encourage greater diversity of housing opportunities in Lexington to meet the needs of a population which is diversified with respect to number of persons in a household, stage of life, and income;
 - Encourage the development of affordable housing;
 - Promote development proposals designed with sensitivity to the characteristics of the site that otherwise might be limited by application of uniform, largely geometric standards;
 - Permit different types of structures and residential uses to be combined in a planned interrelationship that promotes an improved design relationship between new buildings and public facilities and common open space;
 - Preserve historically or architecturally significant buildings or places;
- Encourage the preservation and minimum disruption of outstanding natural features of open land and to minimize impacts on environmentally sensitive areas;
- Encourage sustainable development through the use of green building practices and low-impact development techniques;
 - Promote the efficient and economical provision of public facilities such as utilities and streets and facilitate a detailed assessment, by Town officials and the public, of the adequacy of such facilities and services for the proposed level of development.

6.9.2 Applicability and Timeline.

1. SSD Option

- a. An SSD shall require a special permit from the Planning Board.
- b. An SSD application shall present a proof plan that yields three or more buildable lots.
- c. An SSD application shall be reviewed with 90 days, which does not include the sketch plan review.

2. ARD Option

- a. An ARD project will be allowed by-right when an Applicant petitions the Planning Board during the sketch plan phase. The use of § 135–6.9.6 shall be determined by a majority vote of the Planning Board when it is found the project will yield a project that meets the scale of the neighborhood, benefit the natural environment, preserves historic or architecturally significant structure or site features. If the Planning Board does not vote for an ARD during the sketch plan phase, the project can proceed as an ARD as a special permit.
- b. An ARD application shall present a proof plan that yields two or more lots.
- c. An ARD shall be reviewed as an expedited permit (within a combined total of 90days) when voted upon at the sketch plan phase. Such a timeline does not include the time between reviewing a sketch plan and applying for a site plan review or a special permit.

1. —

~~A special permit residential development is a project in which one or more lots, tracts, or parcels of land are to be improved for use as a coordinated site for housing. No special permit residential development shall be initiated without first obtaining a special permit in accordance with the provisions of this section. The purpose of the special permit is to provide detailed~~

~~review of residential developments that have a substantial impact upon the character of the Town, adjacent residential areas and the provision of public facilities and services.~~

~~Types of Special Permit Residential Development.~~

~~A site sensitive development (SSD) is the development of a parcel with configurations of lots allowing flexibility and creativity in residential development through reductions in minimum lot area and frontage requirements in order to minimize site disturbance, preserve historic and sensitive natural resources, and allow for efficient patterns of construction to lower development cost. The number of dwellings in a site sensitive development may not exceed the number of dwellings that could be constructed in the development of a conventional subdivision.~~

~~[Amended 4-9-2014 ATM by Art. 32] A balanced housing development (BHD) is a development allowing deviation from the dimensional standards that apply to developments in conventional subdivisions in order to achieve a balance of housing choices for a diversity of household types and sizes. Instead of determining density by minimum lot area and frontage requirements, the amount of residential development for the tract as a whole is based on calculations of gross floor area and impervious surface area derived from a conventional development plan for the tract of land.~~

~~[Amended 4-9-2014 ATM by Art. 32] A public benefit development (PBD) is a type of balanced housing development that allows increases in gross floor area and impervious surface area in return for the creation of 10% of the units as affordable housing.~~

6.9.3 Definitions

~~**Unit Floor Area** – The sum of the habitable area of the finished area of floors above grade per individual dwelling unit, excluding basements, porches, balconies, garages (unless habitable), common areas, elevators, and common areas staircases, mechanical and maintenance rooms.~~

6.9.4 Scale of Development.

~~1. An Applicant is not entitled to the maximum development, nor is the applicant Applicant entitled to approval of a special permit residential development if the project does not comply with the requirements outlined in Lexington Bylaws and the Planning Board Zoning Regulations.~~

~~2. Unit Numbers~~

~~a. The number of dwellings in an SSD shall not exceed the number of dwellings shown on the proof plan.~~

~~b. The number of dwelling units in an ARD shall not exceed the gross floor area of the maximum permitted structures shown in the proof plan and divided among the units based on § 135-4.4.~~

~~3. Gross Floor Area.~~

~~The total gross floor area (GFA) in an SSD or ARD may not exceed the sum of the gross floor area that would be permitted on each of the lots shown on the proof plan under § 135-4.4, except for the affordable and moderate housing units or permitted by § 135-6.9.6.~~

~~4. The required number of affordable and moderate rate units shall be in addition to the number of market rate units.~~

~~4.5. The amount of development permitted will be based on a fully complying proof plan, §135-6.9, and the SPGA's the Planning Board's Regulations relative to Site Plan Review and Special~~

Permit Design to evaluate~~evaluation of~~ the extent to which the proposed development complies with the criteria set forth ~~below by the Town.~~

6.9.54 Site Sensitive Development~~Dimensional Standards.~~

The dimensional controls, outlined in § 135- 4.1.1 (Table 2, Schedule of Dimensional Controls) shall comply for lots or dwelling units within 50 feet of the entire project boundaries. Unless modified below, all development outside of the 50 feet mentioned above shall comply with § 135- 4.1.1 (Table 2, Schedule of Dimensional Controls).

~~_____The requirements of § 135-4.0 are modified as follows:~~

1. Lot area (when applicable).

There is no minimum lot area required. Individual lot areas shall be sufficient to meet off-street parking requirements of this bylaw and ~~the installation of~~install any on-site water supply and sewage disposal facilities.

2. Frontage.

There is no minimum frontage required~~.F, and the~~ frontage for each lot shall be sufficient to provide ~~for~~adequate access to the building site. Where shared driveways or other circumstances render frontage on ~~a the~~ street ~~to be to be~~ of no importance, none is required.

3. Yard or Structure Separation and Height Requirements.

a. Yards required by § 135-4.0 and the height limit of § 135-4.3.5 apply to the perimeter of the site, but are not applicable within the site. Structures on a common lot shall have a minimum of 15 feet between structures.

a.b. Zero lot lines are permitted for an adjoining wall of an attached unit.

~~{Amended 3-30-2016 ATM by Art. 39}~~

~~i. Site coverage. There is no maximum site coverage limit for individual lots. Site coverage for the development tract as a whole is limited as described below.~~

Site sensitive developments (SSD). The total gross floor area (GFA) in an SSD may not exceed the sum of the gross floor area that would be permitted on each of the lots shown on the proof plan under § 135-4.4 of this bylaw.~~{Amended 3-30-2016 ATM by Art. 41}~~4. Open Space.

a. When residential units are located on a common lot, each dwelling structure shall be deeded an outdoor amenity area equal to two times the size of the footprint of the respective unit.

b. Each development is expected to preserve natural features, mature native trees, habitat areas, and sloped areas. Where possible, development should be sited to preserve mature native trees and the critical root zone.

5. Inclusionary Housing

An SSD shall incorporate affordable dwelling units, each SSD as outlined below.

a. Each SSD project shall provide one affordable housing unit (maximum AMI of 80 percent) for every 10 lots shown on the proof plan. These affordable units shall be added to the total number of market-rate units.

- b. A fractional number of units shall be rounded up to the next whole affordable unit unless the Planning Board finds by a four-fifths vote for the use of § 135-6.9.5.1.d, below.
- c. No less than 50 percent of the affordable dwelling units shall be offered outside of the range between 40 and 60 percent AMI unless approved by a four-fifths vote of the Planning Board.
- d. For projects with 9 or fewer units, the Applicant may make a payment in lieu equal to 10 percent of the construction cost for each fractional unit up to 90 percent (example, 4 units will equal a 40 percent payment of the cost of construction). Such funds shall be used to retain or to create moderate-rate housing units in Lexington.

6.9.6 Alternative Residential Development.

- 1. Under the provisions of § 135-6.9.6, an ARD project is encouraged to establish a neighborhood community while meeting the following minimum requirements.
 - a. Perimeter Buffer

All ARD projects shall establish a perimeter buffer along the front, sides, and rear property lines equal to 20 percent of the total frontage length. Such area shall be left in its natural state for side and rear yards. While the front yard setback shall be designed to retain historical features (stonewalls) and large trees.
 - b. Dimensional Requirements

An ARD is exempt from § 135-4.1.1 (Table 2: Schedule of Dimensional Controls) but shall comply with the following

 - a. Individual Lots or Open Yard Space shall be provided as follows
 - i. Single-family units shall be on a lot no less than 8,000 sf; or
 - ii. Attached dwelling (townhouse, duplex, etc.) units shall have each unit on a lot no less than 4,000 sf.
 - iii. Where dwelling units are stacked, then each unit shall be granted usable open yard space equal to 2 times the footprint of the unit.
 - b. Lot coverage may be up to 35 percent for each new lot created or 35 percent of the entire lot for units on a common lot.
 - c. Building height may not exceed 3 floors and 35 feet in height,
 - d. Individual lots shall have side, and rear yards shall that comply with § 135-4.0. Or a minimum structure separation of 15 feet when structures are on a common lot.
 - e. Zero lot lines are permitted when units share a common wall.
 - f. The average unit size for the entire project shall not exceed 2,100 sf of the Unit Floor Area.
 - c. Inclusionary Housing
 - a. An ARD shall provide inclusionary housing units at a ratio of 1 for every 5 market-rate units.
 - b. The inclusionary units shall not exceed 200 percent of the Area Median Income (AMI). Of which 50 percent of the inclusionary units must be below 80 percent AMI at a distribution agreed upon by the Applicant and the Planning Board.
 - c. For projects with fractional units, an applicant may utilize § 135-6.9.5.d.

6.9.7 Accessory Apartments.

The Planning Board may authorize accessory apartments for an RD project, using the provisions outlined in § 135-6.7 of this Bylaw. The addition of Accessory Apartments shall not be taken out

of the Unit Floor Area. Nor shall such Accessory Apartments be utilized for the affordable housing units.

6.9.8 Historical and Architectural Preservation

1. A historic structure, architecturally significant structure, or structure that is unique to the scale of the neighborhood as determined by the Planning Board, the Historical Commission, or the Historic District Commission is encouraged to be incorporated into an RD project.
2. Once a structure is determined to utilize § 135-6.9, then such structures shall be
 - a. Exempt from Inclusionary Housing Requirements as outlined in § 135-6.9.5 or .6, unless such structure yields more than 20 units. Then, all units over 20 are utilized § 135-6.9.5.d.
 - b. An Applicant shall follow dimensional requirements for such structure when an addition to the structure is proposed
 - i. Side and rear yards: Units shall be located on an individual lot that meets the side and rear yard requirements outlined in § 135 – 4.0;
 - ii. Lot coverage: The structure shall not cover more than 50 percent of the individual lot it placed on;
 - iii. Open Space: Each unit within the structure shall be deeded outdoor open space equal to two times the net floor area of the respective individual unit in the structure.
 - iv. Unit size: Each unit within the structure shall not be less than 600 sf net floor area
 - v. Gross Floor Area: The structure may be added onto without exceeding more than 25 percent of the existing net floor area.

6.9.9 Visitor Parking.

A minimum of 1 parking space per every 3 dwelling units shall be provided for visitor parking. Visitor parking may be on-street parallel or in a perpendicular pull-off. Where possible, visitor parking should be covered with solar canopies.

~~**Gross Floor Area Standards.**~~

~~1. Site sensitive developments (SSD). The total gross floor area (GFA) in an SSD may not exceed the sum of the gross floor area that would be permitted on each of the lots shown on the proof plan under § 135-4.4 of this bylaw.~~

~~[Amended 3-30-2016 ATM by Art. 41]~~

~~Balanced housing developments. The total gross floor area (GFA) of all structures in a BHD shall be less than the number of lots shown on the proof plan multiplied by 7,200 square feet.~~

~~Public benefit developments. The total gross floor area (GFA) of all structures in a PBD shall be less than the number of lots shown on the proof plan multiplied by 8,640 square feet.~~

~~**Dwelling Unit Count and Limitations on Unit Size.**~~

~~Site sensitive developments. The number of dwellings in a SSD shall not exceed the number of dwellings shown on the proof plan.~~

~~1. ——— Balanced housing developments. The number of dwelling units permitted in a BHD is not limited. At least 25% of the dwelling units must have a GFA not larger than 2,700 square feet, and at least 50% of the dwelling units must have a GFA not larger than 3,500 square feet.~~

~~————— Public benefit developments. The number of dwelling units permitted in a PBD is not limited. At least 25% of the dwelling units must have a GFA not larger than 2,700 square feet, and at least 50% of the dwelling units must have a GFA not larger than 3,500 square feet. In addition, 10% of the total number of dwelling units in the development must be affordable to households earning no more than 80% of the area median income.~~

~~6.9.8 — Impervious Surface Standards.~~

~~1. ——— Site sensitive developments. The impervious surface limit in a SSD is based on the proof plan. The limit for the development as a whole is calculated as follows:~~

~~Step 1: Determine the area in square feet of each lot shown on the proof plan. For each lot in a RS or RT District, multiply its lot area by 0.20; for each lot in the RO District, multiply its lot area by 0.12.~~

~~Step 2: Determine the total area of the impervious surfaces contained on the proof plan that are not contained within lots, such as roads, sidewalks, and similar surfaces.~~

~~Step 3: The impervious surface limit for the SSD is the sum of the impervious surface calculations from Steps 1 and 2.~~

~~2. ——— Balanced housing developments. The impervious surface limit in a BHD is calculated in the same manner as that of a SSD.~~

~~3. ——— Public benefit developments. The impervious surface limit in a PBD is calculated in the same manner as that of a SSD and increased by 20%, i.e. multiplied by 1.20.~~

~~6.9.9 — Site Coverage Standards.~~

~~1. ——— For site sensitive developments, the site coverage limit is based on the proof plan. The limit for the development as a whole is calculated as follows:~~

~~Step 1: For each lot on the proof plan, multiply its lot area in square feet by 0.15 for lots in RS and RT Districts, and by 0.09 for lots in RO Districts.~~

~~Step 2: The site coverage limit for the SSD as a whole is equal to the sum of the individual lot site coverage calculations determined in Step 1.~~

~~2. ——— For balanced housing developments, there is no site coverage limit.~~

~~3. ——— For public benefit developments, there is no site coverage limit.~~

~~6.9.10 — Common Open Space Standards.~~

~~1. ——— Minimum common open space. At least 33% of the developable site area in a BHD or PBD shall be set aside as common open space. A maximum of 20% of common open space may be devoted to parking or structures used for, or accessory to, active outdoor recreation, provided such parking or structures are consistent with the open space uses of such land.~~

~~2. Location; condition. Where required or provided, common open space shall be land that may be in one or more parcels of a size and shape appropriate for the intended use and available for use by all occupants of a development.~~

~~3. Easement. When such open space is conveyed to persons or entities other than the Town, an easement over such land shall be granted to the Town to ensure its perpetual use as open space, conservation, recreation or park land.~~

~~6.9.11 Ownership of Open Space.~~

~~Common open space may be conveyed to:~~

~~1. The Town, subject to acceptance, to ensure its perpetual use as open space, conservation, recreation or park land; or~~

~~2. A legal association comprised of the owners of the development, which may include homeowners or owners of condominium or cooperative units; or~~

~~3. A nonprofit organization, the principal purpose of which is the conservation of open space.~~

~~6.9.12 Streets and Drives.~~

~~The objective of this section is that adequate access for fire fighting, medical and other emergency operations be provided from the public street system to each site sensitive, balanced housing, or public benefit development, as follows:~~

~~1. Connection to public street system. Each street and interior, drive, or system of streets or interior drives, shall connect to a public street.~~

~~2. A dead-end interior drive will be treated in the same manner as a dead-end street, and is subject to the provisions governing a dead-end street that are found in the Subdivision Regulations.~~

~~[Amended 3-23-2016 ATM by Art. 37]~~

~~3. In a development served by a dead-end street or dead-end interior drive, a secondary means of access may be required in order to provide adequate access for fire fighting, medical and other emergency vehicles. The Fire Chief will be consulted as to the adequacy of the access.~~

~~6.9.13~~ 6.9.10 Sustainable Design

1. RD projects shall be designed to reach the Town's net-zero goals through environmentally sustainable and energy-efficient design.

2. Environment and energy. Buildings shall meet one of the following environmental standards:

a. Home Energy Rating System (HERS) rating no greater than 47 for units of 1,200 square feet or less and no greater than 41 for units larger than 1,200 square feet. Alternatively, for units of 1,200 square feet or less, the PAA may consider a comparable energy standard to the HERS rating of 47 after consultation with the Building Commissioner.

b. Certifiable under the US Green Building Council LEED New Construction Gold or Neighborhood Development Gold Certified.

6.9.11 RD Design and Compliance with Other Rules and Regulations.

1. Projects shall comply with the Planning Board Zoning Regulations, § 176 – 12.0, as amended.

1. ~~The construction of community services, roadways and public infrastructure shall comply with such as utilities, and of streets and interior drives shall comply with the requirements of the Planning Board's Board's Subdivision Regulations unless modified by the Fire Department and the Department of Public Works.~~
2. ~~[Amended 3-23-2016 ATM by Art. 37]~~
3. ~~Dead-end roadways are strongly discouraged. When an alternative is not possible, turn arounds, such a T-heads, Y-heads, center islands, should be utilized rather than a cul-de-sac. Such alternative shall be reviewed and approved by the Fire Department to ensure public safety.~~
4. ~~The design and construction of the inclusionary dwelling units shall be comparable to and indistinguishable from the market-rate units in exterior building materials and finishes, windows, and other improvements. Such units shall be no less than the median size of all units in the project.~~

6.9.14 ~~Modification by Special Permit:~~

~~The SPGA may, as part of the grant of a special permit, modify the requirements of §§ 6.9.8 and 6.9.9, and the following provisions, as they may apply to individual dwellings or lots within a special permit residential development:~~

Bylaw Provisions

~~Number of dwellings on a lot~~

~~Lot width~~

~~Contiguous developable site area~~

~~Location of off-street parking spaces~~

~~Setbacks required for parking spaces and driveways~~

~~Subdivision of land in relation to lots or buildings that are nonconforming or would not comply with this bylaw as a result of proposed development~~

~~Types of Dwellings:~~

~~The SPGA may, as part of the grant of a special permit, allow the following types of dwellings:~~

Type of Dwelling	SSD	
One family detached	Yes	
Two family (*Yes in RT District)	No*	
Townhouse	No	

6.9.12 Waivers.

The Planning Board may waive the provisions of § 135 – 6.9.4 – 10, by a four-fifths vote if it is found to benefit the neighborhood, be sensitive to the natural environment, and yield a better design.

6.9.13 Restriction.

No certificate of occupancy shall be issued until all restrictions, deed riders, and recording of such units through the Department of Housing and Community Development LIP applications are submitted and approved for the affordable units are executed and recorded and moderate units, when applicable.

~~6.9.16 Accessory Apartments.~~

~~The SPGA may authorize accessory apartments, as described in § 6.7 of this bylaw, to be created within a site sensitive development.~~

~~{Amended 4-9-2014 ATM by Art. 32; 3-30-2016 ATM by Art. 40}~~

~~6.9.17 Conversion.~~

~~The SPGA may authorize an existing structure, that was constructed at least 10 years prior to the date of application for approval of the special permit, to be converted to a residential use not otherwise permitted. The special permit shall incorporate by reference the building design and definitive site development plans filed with the application for a special permit, and, where applicable, any legally binding document that has been submitted to ensure the completion and continued availability of any proposed improvement or compliance with special conditions. In order to grant the permit the SPGA shall determine that:~~

- ~~— The structure can be modified for a residential use that does not have adverse impacts on any adjacent one-family neighborhood;~~
- ~~— The exterior character of the structure is maintained and is compatible with any adjacent neighborhood of one-family dwellings;~~
- ~~— Modification of the existing structure maintains more of the site as open space than the alternative of removal of the structure and further subdivision of the lot into house lots.~~

~~6.9.18 SPGA.~~

~~The Planning Board shall be the special permit granting authority for all special permit residential developments. The Planning Board may grant any special permits that are required for the special permit residential development, notwithstanding provisions of this bylaw designating a different special permit granting authority.~~

~~6.9.19 Criteria.~~

~~The SPGA may only grant a special permit if it makes a determination that the proposed development is consistent with the standards and criteria set forth in § 9.4.2 and the following additional criteria:~~

- ~~1. — Where there is common open space, it shall include, as applicable:
 - ~~a. — Some, or all, of the outstanding natural features of the site and of the man-made features, including but not limited to stone walls, that enhance the land form;~~
 - ~~b. — Land that increases visual amenities for residents of the development and of the adjacent neighborhood;~~
 - ~~c. — One or more paths or entry points specifically designed for access purposes.~~~~
- ~~2. — The dwellings are sited and oriented in a complementary relationship to: each other, the common open space, and the adjacent properties with respect to scale, mass, setback, proportions and materials;~~

- ~~3. Negative visual impacts of the development, if any, are screened from adjacent properties and nearby streets by landscaping or other site planning techniques;~~
- ~~4. Where opportunities exist, improved access is provided to, or additional links and connections are developed to, a Town system of public facilities, such as open space, recreation facilities, footpaths or bicycle paths;~~
- ~~5. Any building which contains more than one dwelling unit is designed so that either:
 - ~~a. The building has the exterior appearance of a one-family dwelling; or~~
 - ~~b. If two-family dwellings and/or townhouses are constructed, each individual dwelling unit has access to ground level and an opportunity for a private yard, patio, or other private outdoor space;~~~~
- ~~6. There are provisions for common facilities, such as recreation or parking, or for services such as the maintenance of streets, walkways or paths, utilities, landscaping or recreation facilities;~~
- ~~7. Where there are sufficient dwelling units, the layout of the street(s) and interior drive(s) will accommodate vehicles, other than automobiles, that are used in local transportation services.~~
- ~~8. To the extent practicable, sustainable development techniques, including green buildings, have been utilized.~~
- ~~9. A public benefit development shall meet the following criteria:
 - ~~a. There are sufficient benefits to the adjacent neighborhood and the Town generally to warrant an increase in the maximum development otherwise permitted; and~~
 - ~~b. Legally binding documents have been submitted that insure that affordable units will continue to be available to eligible households in perpetuity. An affordable unit shall be subject to maximum household income established for that unit, based on the area median income (AMI) as annually determined by the U.S. Department of Housing and Urban Development, assuming one more person in the household than the number of bedrooms in the unit. Eligible households shall have incomes no greater than 80% of the AMI.~~~~