

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, Site sensitive development	N	<u>SPR</u>	<u>SPR</u>	<u>SPR</u>	N	N	N	N	N	N	N	N
A.1.06 <u>Open space residential development (OSRD) (see §6.12)</u>	<u>N</u>	<u>R</u>	<u>R</u>	<u>R</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>

Amendment to §135-10.0, Definitions

AREA MEDIAN INCOME (AMI)

The median family income, adjusted for household size for the metropolitan area, includes the Town of Lexington, as determined by the US Department of Housing and Urban Development (HUD).

INCLUSIONARY DWELLING UNIT

A dwelling unit that is permanently restricted in its sale, lease, or rental through a deed rider or other restriction acceptable to the Town.

MAXIMUM HOUSEHOLD INCOME

The maximum household income of an eligible purchaser or tenant of a dwelling unit as a percentage of the AMI for a household of size one more than the number of bedrooms in the dwelling unit.

MINIMUM HOUSEHOLD INCOME

The minimum household income is sufficient to obtain financing to purchase a dwelling unit as a percentage of the AMI for a household of size one more than the number of bedrooms in the dwelling unit.

MULTI-FAMILY DEVELOPMENT

A multi-family development as defined in MGL c. 40A §1A.

OPEN SPACE RESIDENTIAL DEVELOPMENT (OSRD)

An open space residential development as defined in MGL c. 40A §1A.

Amendment to §135-6.9, Special Permit Residential Developments

6.9 ~~SPECIAL PERMIT~~ RESIDENTIAL DEVELOPMENTS.

6.9.1 Purpose. This section is intended to:

1. Provide development alternatives to the conventional subdivision for residential development;
2. Encourage greater diversity of housing opportunities in Lexington to meet the needs of a population that is diversified with respect to the number of persons in a household, stage of life, abilities, and income;

3. Promote development proposals designed with sensitivity to the characteristics of a site that otherwise might limit development options due to the application of uniform, largely geometric standards;
4. Permit different types of structures and residential uses to be combined in a planned interrelationship that promotes a relationship between new buildings, public facilities, and open land;
5. Preserve historically or architecturally significant buildings or places;
6. Encourage the preservation and minimum disruption of outstanding natural features of open land and minimize impacts on environmentally sensitive areas; and
7. Encourage the use of sustainable development techniques through site plan review.

- ~~1. — Ensure that the development of multiple dwellings does not detract from the livability, scale, character or economic value of existing residential neighborhoods;~~
- ~~2. — 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;~~
- ~~3. — Encourage the development of affordable housing;~~
- ~~4. — Promote development proposals designed with sensitivity to the characteristics of the site that otherwise might be limited by application of uniform, largely geometric standards;~~
- ~~5. — 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;~~
- ~~6. — Preserve historically or architecturally significant buildings or places;~~
- ~~7. — Encourage the preservation and minimum disruption of outstanding natural features of open land and to minimize impacts on environmentally sensitive areas;~~
- ~~8. — Encourage sustainable development through the use of green building practices and low impact development techniques;~~
- ~~9. — 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.

1. The development permitted shall be based on the extent to which the Open Space Residential Development (OSRD) or Site Sensitive Development (SSD) complies with the criteria set forth below and regulations adopted pursuant to §9.5.5 to further the purposes of this section.
2. The proof plan shall show two or more lots.

~~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.~~

6.9.3 Types of ~~Special Permit~~ Residential Development.

1. A ~~site-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]

2. A open space residential development (OSRD) is the development of a parcel focusing on retaining natural open space for habitat preservation and creating small residential units that co-exist. The number of dwellings that could be constructed in the development shall not exceed the total allowed gross floor area of a conventional subdivision except density bonuses.

~~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] 3. 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.~~

6.9.4 Scale of Development.

An applicant is not entitled to the maximum development, nor is the applicant entitled to the approval of a ~~special permit residential developments~~ site plan review. The amount of development permitted will be based on a fully complying proof plan, §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.

6.9.5 Dimensional Standards.

1. Site Sensitive Development

The requirements of § 135-4.0 are modified as follows:

- a. ~~1-~~Lot area. 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.
- b. ~~2-~~Frontage. There is no minimum frontage required. 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.

- c. ~~3-~~Yard and Height Requirements. 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.
[Amended 3-30-2016 ATM by Art. 39]
- d. ~~4-~~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.
- e. Gross Floor Area. 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. [AL1] Amended 3-30-2016 ATM by Art. 41]
- f. Dwelling Units. The number of dwellings in a SSD shall not exceed the number of dwellings shown on the proof plan. [AL2]
- e.g. Impervious Surface. 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. [AL3]
- h. [AL4] Site Coverage Standards. 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 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. [AL5]

2. Open Space Residential Development

The requirements of § 135-4.0 are modified as follows:

- a. Lot area. There is no minimum lot area required, provided that individual lots in an OSRD shall be designed to be sufficient to meet the off-street parking requirements of this bylaw, if applicable, and to permit the installation of any on-site water supply and sewage disposal facilities. The requirements of §4.2.2 (Lot Regularity) and §4.2.3 (Developable Site Area) do not apply.
- b. Frontage. There is no minimum lot frontage required, provided sufficient frontage to provide adequate access to the building site. Where shared driveways or other circumstances render frontage on a street unnecessary for such adequate access, no frontage is required.
- c. Yard. Yards required by §4.0 shall apply to the perimeter of an OSRD. No yards are required within an OSRD. Buildings may share a common wall.
- d. Height. The height limit of §4.3.5 shall apply along the perimeter of an OSRD but shall not apply within an OSRD. The other height limits of §4.0 shall apply.
- e. Multiple Dwellings. There is no limit on the number of dwellings in an OSRD or on a lot. The requirements of §4.1.4 (One Dwelling per Lot) do not apply.

- f. Amenity space. At least 180 SF of unroofed amenity space shall be available for the exclusive use of the residents of each dwelling unit.
- g. Floor Area. The requirements of §4.4 (Residential Gross Floor Area) shall not apply in an OSRD except as provided below.
 - i. The total gross floor area of all buildings, excluding inclusionary dwelling units provided under §6.12.6, shall not exceed the total gross floor area permitted under §4.4 for all lots shown on the proof plan.
 - ii. The gross floor area of each building shall not exceed the gross floor area permitted under §4.4 for the smallest lot shown on the proof plan.
 - iii. The gross floor area of any dwelling unit shall not exceed 5,250 SF.
 - iv. The average gross floor area of all dwelling units shall not exceed 2,625 SF.
 - v. Buildings listed on the National Register of Historic Places or the Historical Commission's Cultural Resources Inventory for which a historic preservation restriction in a form acceptable to the Town is in effect. The dwelling units within them shall not be included in the calculation of gross floor area under § 6.12.3.7.
 - vi. In a multi-family development, the SPGA may issue a special permit to exceed these limits in accordance with §4.4.3.
 - vii. The site plan for the OSRD shall specify maximum gross floor areas for the whole OSRD, each dwelling, and each dwelling unit. Any deed for all or a portion of the OSRD shall restrict the gross floor area of that portion in accordance with the site plan.

6.9.6 Parking

- 1. Visitor parking. Where on-street parking is not available, a minimum of 1 additional parking space per every 4 dwelling units shall be provided for visitor parking.

6.9.7 Open Space Residential Development Design.

- 1. Minimum open land.
 - a. Open space shall comprise a minimum of 35% of the developable site area within an OSRD shall be set aside as open land, as described in MGL c. 40A §1A.
 - b. In addition to open land set aside under the previous provision, at least 15% of the developable site area within an OSRD shall be set aside as either additional open land, land for active or passive recreation, or stormwater retention areas.
 - i. This provision may be decreased by a four-fifths vote of the Planning Board to increase the number of moderate rate housing units. Such an increase may be accompanied by a 1:1 ratio of additional market rate units.
 - c. The minimum open land required shall be decreased by the gross floor area of any buildings listed on the National Register of Historic Places or the Historical Commission's Cultural Resources Inventory. A historic preservation restriction in a form acceptable to the Town is in effect.

2. Condition. Open land shall be kept in an open or natural state and not be built for residential use or developed for accessory uses such as parking or roadways.
3. Location. Open land shall be land in one or more parcels of a size and shape appropriate for the intended use and available for use by all occupants of an OSRD. Open land shall include any or all of the following, as appropriate:
 - a. Land that separates groups of buildings within the OSRD from other groups and adjacent property;
 - b. Land that promotes and protects maximum solar access within and around the OSRD;
 - c. Outstanding natural and man-made features of the site, including but not limited to stone walls, that enhance the landform;
 - d. Natural habitat area and wildlife corridors, but shall not include wetlands or associated buffers;
 - e. Land that increases visual amenities for residents of the OSRD and of the adjacent neighborhood; and
 - f. Paths or entry points are designed explicitly for access purposes.
4. Ownership. Open land shall be conveyed to:
 - a. A legal association comprised of the owners of the OSRD, which may include homeowners or owners of condominiums or cooperative units;
 - b. The Town, subject to acceptance, to ensure its perpetual use as open space or parkland; or
 - c. A nonprofit organization, the principal purpose of which is the conservation of open space.
5. Restriction. When such open land is conveyed to entities other than the Town, a conservation restriction over such land shall be granted to the Town, or a nonprofit organization, the principal mission of which is to conserve open space to ensure its perpetual use as open space or parkland.
6. Certificate of occupancy. No certificate of occupancy shall be issued until any conveyance of open land or restrictions is completed.

6.9.7 Site Sensitive Development Design.

1. 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:

 - a. Connection to public street system. Each street and interior, drive, or system of streets or internal drives shall connect to a public street.
 - b. 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 found in the Subdivision Regulations. [Amended 3-23-2016 ATM by Art. 37]
 - c. 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.

6.9.6 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]~~~~
2. 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.
3. 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.

6.9.7 Dwelling Unit Count and Limitations on Unit Size.

- ~~1. Site sensitive developments. The number of dwellings in a SSD shall not exceed the number of dwellings shown on the proof plan.~~

6.9.8 Inclusionary Housing.

1. An OSRD and SSD shall incorporate inclusionary dwelling units into each applicable OSRD and SSD. Such inclusionary dwelling units shall be an additional number of units based on the number of allowed market rate units. Inclusionary dwelling units shall be determined as follows:
 - a. Projects between 5 to 10 units shall provide 2 additional dwelling units as inclusionary dwelling units;
 - b. Projects with 11 or more units shall provide a total number of additional dwelling units as inclusionary equal to 20% of the market rate dwelling units.
 - c. A minimum of 50% of the inclusionary dwelling units shall be affordable (40-80% AMI).
2. 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.
3. For the purpose of this section, dwelling units in buildings listed on the National Register of Historic Places or the Historical Commission's Cultural Resources Inventory for which a historic preservation restriction in a form acceptable to the Town is in effect shall be disregarded for the purposes of this section 6.12.6.
4. Each inclusionary dwelling unit shall be assigned a minimum household income and a maximum household income.
 - a. The sale price or rent for an inclusionary dwelling unit shall be affordable to a household with the minimum household income for that unit.
 - b. Inclusionary dwelling units may be occupied only by a household with an income below the maximum household income for that unit.
 - c. The Planning Board shall adopt regulations defining acceptable minimum and maximum household incomes for inclusionary dwelling units.

5. Subsidized housing inventory. At least 10% of the dwelling units in an OSRD shall be eligible for inclusion on the DHCD Subsidized Housing Inventory.
6. Restrictions. No certificate of occupancy shall be issued until all restrictions for inclusionary dwelling units are executed and recorded.
 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.~~
 3. ~~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~~ **6.9.9** Compliance with Other Rules and Regulations.

~~The construction of community services, such as utilities, and of streets and interior drives shall comply with the requirements of the Planning Board's Subdivision Regulations.~~

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

~~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

Bylaw Provisions

~~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~~

~~6.9.15~~ 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	

~~6.9.16~~ ~~6.9.10~~ Accessory Apartments.

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

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

~~6.9.17~~ ~~6.9.11~~ Conversion.

~~The SPGA may~~ By special permit, an authorize an existing structure, ~~that was~~ constructed at least 10 years prior to the date of application for approval ~~of the special permit,~~ an SSD or OSRD application, 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~~ To grant the permit, the SPGA shall determine that:

- ~~1.~~ The structure can be modified for ~~a~~ residential use that does not have adverse impacts on any adjacent ~~one family~~ neighborhood;
- ~~2.~~ The exterior character of the structure is maintained and is compatible with any adjacent neighborhood ~~of one family~~ dwellings;
- ~~3.~~ 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.