

The Village Center Overlay District

Model Bylaw

The following model bylaw was developed to supplement the original TND Model Bylaw developed for the Toolkit. The original model covers all of the essential aspects of TND, but is more limited in its application to wholesale redevelopment of large areas or greenfield development. As such, that model bylaw is difficult to apply to the more common problem associated with today's aging village centers, which are often characterized by pre-existing non-conforming uses and commercial "strip" centers. This model will help practitioners zone for a more gradual or piecemeal revitalization of existing centers that currently have little to no mixed use and limited walkable options for customers and residents. The bylaw anticipates that most redevelopment will take place on smaller lots of different ownership, but also anticipates that there may be opportunities for larger scale revitalization efforts.

This model is packaged as an overlay district assuming that the focus in many communities will be on "business" districts that may be wide spread throughout the community. Using an overlay approach, therefore, will allow local planners to target areas of interest without creating problems in the same district elsewhere in the city or town.

One of the challenges associated with a piecemeal approach to TND is appropriately integrating open space or civic use into the district. Requiring civic use as part of redevelopment would create significant practical and legal barriers to implementation. Furthermore, a piecemeal approach to developing open space in a village context might create a fragmented resource that fails to serve as a functional public amenity. This model bylaw therefore provides the opportunity to earn significant density bonuses for the addition of open space or civic uses through a voluntary Special Permit process. Importantly, the Special Permit is offered for larger sites where the coordinated development of several buildings along with open space can achieve many of the classic TND objectives.

Many of the design elements included in this model are the same as or similar to those in the Mill Redevelopment Bylaw, as these areas share the overarching goal of creating a compact walkable neighborhood. Due to all of the design considerations associated with this bylaw, it is highly recommended that the language for these guidelines emerge from a charrette or similar public outreach process. This outreach process will also help identify the appropriate permitting vehicle (Special Permit, Site Plan Review, by-right) depending on how strongly residents feel about the need for discretion or more rigid approaches.

Another important note regarding this bylaw is that it assumes there are certain common regulatory elements elsewhere in the Zoning Bylaw. For example, this bylaw references both a Site Plan Review section and the community's essential Special Permit procedures that most communities will have in early sections of the bylaw or ordinance. Referencing these sections made it easier to present the most important sections of this bylaw without being distracted by several pages of plan requirements, permit procedures and basic findings.

1. Purpose

[INSERT NAME OF CITY/TOWN] finds that the revitalization of our village centers will benefit the general health and welfare of our residents and the region by fulfilling existing housing, transportation and employment needs. Therefore, the Town implements this bylaw and designates certain zoning districts as Village Center Overlay Districts to encourage economic and residential growth that fits the character of the Town.

The purposes of the Village Center Overlay District are to:

- A. Build upon the historic development patterns in existing village centers to create attractive, walkable neighborhoods;
- B. Encourage adaptive reuse of abandoned, vacant or underutilized buildings or structures where appropriate;
- C. Allow for a mix of new land uses that are appropriate to both the needs of the community and the scale of surrounding neighborhoods;
- D. Provide incentives to develop larger parcels at higher densities and in a coordinated, planned approach;
- E. Maintain a consistently high level of design quality throughout the district.

Commentary: The purposes listed above are used as part of the decision making criteria for the Planning Board, so communities must be careful to craft these according to their vision for the village center district. Where the district may be used to leverage affordable housing development, these goals should be clearly incorporated into this section.

2. Establishment

The Village Center Overlay District is hereby established and consists of those areas shown on [INSERT TITLE OF MAP] on file with the Town/City Clerk and dated [INSERT DATE MAP IS ADOPTED BY THE CITY/TOWN].

3. Definitions

Civic Use: a land use that provides a public, cultural, or institutional benefit to the community. Specific uses may include, but shall not be limited to, government offices, religious institutions, educational institutions, and medical facilities (not including veterinary operations). For the purposes of this bylaw, civic uses shall not include open space as defined below.

Personal Services: services for everyday affairs including barber shops, beauty salons, laundrettes, dry cleaning, shoe repair and other similar service businesses.

Open Space: In the context of an application for a Village Center Overlay District Special Permit, this term denotes open areas set aside for public use as part of a coordinated site development process. Specific requirements for ownership and maintenance are provided in Section 9.

Transparency: The amount of transparent space that occupies a building façade including standard street-level windows and doorway windows.

4. Authority

The Planning Board shall act as the administering authority for any Site Plan Review procedure associated with this bylaw (INSERT REFERENCE TO EXISTING SITE PLAN REVIEW SECTION)]. The Planning Board shall also serve as the Special Permit Granting Authority for any use that requires a Special Permit in the underlying district, any use requiring a Special Permit pursuant to Section 5, and any applicant seeking a Village Center Overlay District (VCOD) Special Permit subject to Section 9. Where standards or other requirements listed as part of this overlay district may conflict with those in the underlying district, the overlay provisions shall apply.

Commentary: This section clearly identifies a single agency, in this case the Planning Board, as the primary oversight for all permit review. This approach provides continuity for any permit submittals within the overlay district. Also, the section clearly establishes that the provisions of the overlay shall apply where any conflicts may exist elsewhere in the Zoning Bylaw/Ordinance.

5. Use Provisions

- A. The following uses are allowed by-right subject to any Site Plan Review requirements listed [REFERENCE EXISTING SITE PLAN REVIEW BYLAW] and all applicable density and design provisions listed in this bylaw.
- 1) Multi-family Dwellings above non-residential use (ownership units);
 - 2) Apartments above non-residential use (rental units);
 - 3) Convenience Stores;
 - 4) Pharmacies;
 - 5) Cafés (including cyber-cafés);
 - 6) Art Galleries;
 - 7) Grocery Stores;
 - 8) Business or Professional Offices;
 - 9) Retail Sales and Services;
 - 10) Personal Services;
 - 11) Restaurants, except the use of drive-up windows;
 - 12) Taverns;
 - 13) Outdoor seating associated with Restaurants or Cafés subject to applicable licensing requirements;
 - 14) Artist live/work space;

Commentary: The uses listed above illustrate the types of land uses that may be considered conducive to village center redevelopment. Including multiple by-right uses provides many opportunities for property owners to redevelop through an administrative permit process. These uses should be examined carefully against all uses in a city/town's use table as well as those allowed in the underlying districts to ensure that all desirable uses are included.

- B. The following uses are allowed only through the granting of a Special Permit by the Planning Board pursuant to the procedures outlined in [REFERENCE EXISTING STANDARD SPECIAL PERMIT REQUIREMENTS].

- 1) Two-Family Homes;
- 2) Multi-Family Homes;
- 3) Apartment Complexes;
- 4) Movie House (maximum of two screens);
- 5) Liquor Stores
- 6) Outdoor Markets subject to applicable licensing requirements;
- 7) Indoor Recreational Facilities;

Commentary: These uses are provided to illustrate the sort of land uses that may or may not be compatible with the district depending on site specific conditions. Of particular interest are the two-family homes, multi-family homes and apartment complexes. The rationale for including these as Special Permit uses is to ensure that areas better suited for mixed use are not overcome by an aggressive housing market. Established “Main Street” environments will need to maintain a multi-story mixed use profile in order to harness the full economic potential of the area. If communities are concerned about the political pressures associated with this approach, the overlay could be divided into two sub-districts. The outer portions of the overlay could then become their own sub-district in which housing of all types are allowed by-right.

C. The following uses are prohibited in the Village Center Overlay District

- 1) Single Family Homes;
- 2) One-story buildings;
- 3) Retail operations with more than [ten thousand (10,000) square feet] of gross floor area on any individual floor.

Commentary: The prohibited uses above are designed to protect the village center against inefficient uses of land. These standards will send a clear message to the development community that density is an integral component of any proposal.

6. Dimensional Requirements

- A. Setbacks for Non-residential and Mixed Use: Setbacks for non-residential or mixed use buildings shall fall within the range of [zero (0) to eighteen (18) feet] and shall be subject to the site design standards in Section 8.
- B. Setbacks for Residential Uses (Exclusive): The setbacks for proposed development that is exclusively residential shall comply with the setback requirements in the underlying zoning districts.

Commentary: Although this model bylaw defaults to the underlying zoning for residential development, local practitioners may want to closely examine the existing housing in the area to ensure that older, attractive neighborhoods are not left “non-conforming” within the overlay as a result of this default approach. If larger existing old home could set a reasonable standard for the area, and current zoning has made them non-conforming, this overlay approach is a good opportunity to re-establish these as an integral element to the streetscapes surrounding a village core.

- C. Height Limitations for Non-residential and Mixed Use: Building height for mixed use or non-residential use shall not exceed [thirty-five (35) feet] and no building shall have more than [three (3)] stories.

Commentary: Height limitations in this provision ensure a “human” or “village” scale to the district by restricting building height to three stories. However, they also serve to lay the foundation for higher density incentives listed in Section 9 where the height may be increased to 50 feet for larger lot, coordinated development.

- D. Height Limitations for Residential Uses (Exclusive): Building height limits for proposed development that is exclusively residential shall comply with the restrictions in the underlying zoning districts.

Commentary: See Commentary under “B” above.

7. Parking Requirements

The base parking standards for the underlying Zoning Districts shall apply to individual uses in the Village Center Overlay District. As part of a Site Plan Approval or Special Permit process within this overlay district, the applicant may request reductions to minimum requirements or alternative methods for meeting the required parking. Available innovative parking strategies include:

A. Shared On-Site Parking

- 1) Non-competing Uses. In mixed-use developments, applicants may propose a reduction in parking requirements based on an analysis of peak demands for non-competing uses. Up to [75%] of the requirements for the predominant use may be waived by the Planning Board if the applicant can demonstrate that the peak demands for two uses do not overlap.
- 2) Competing Uses. In mixed-use developments, applicants may propose a reduction in parking requirements where peak demands do overlap. In these cases, the Planning Board may reduce the parking requirements of the predominant use by up to [30%].

B. Off-Site Parking

Separate from, or in conjunction with Shared Parking provisions, an applicant may use off-site parking to satisfy their parking requirements in accordance with the following conditions:

- 1) Off-site parking shall be within [five hundred (500)] feet of the property for which it is being requested.
- 2) Off-site parking spaces provided by a separate private property owner shall be subject to a legally binding agreement that will be presented to the Planning Board as a condition of the Special Permit. Where an agreement shall expire within a specified timeline, the applicant or current property owner shall continue to provide evidence to the Zoning Enforcement Agent that the agreement has been extended.

8. Design Standards

The Design Standards in this section shall be applied to development within the Village Center Overlay District where applicable.

A. Buildings

- 1) All buildings shall have a principal façade and entry (with operable doors) facing a street or open space. Buildings may have more than one principal façade and/or entry;
- 2) Building finish materials shall be appropriate to traditional New England architecture and may include, but shall not be limited to brick or high-quality brick face, wood, stone or high-quality stone-face. Vinyl, unfinished metal or fiberglass as a primary finished surface shall not be used;
- 3) Blank walls adjacent to streets, alleys or open spaces shall not be permitted. Where windows are not possible or appropriate to the intended use, vertical articulation in the form of raised or recessed surfaces shall be used to break up blank walls;
- 4) New retail buildings shall have one of the following features along the front surface at intervals sufficient to provide continuity to pedestrians: awning, marquee, arcade and/or colonnade;
- 5) Flat roofs may be allowed on multi-story buildings as long as the roofline projects outward from the building surface as a decorative cornice or parapet; and
- 6) Larger buildings with multiple non-residential tenants on the first floor shall articulate the façade in a manner that distinguishes the location of these tenants through the use of decorative raised or depressed vertical surfaces, variations in acceptable signage, awnings, marquees, colonnades or arcades.

B. Signs

- 1) Primary signs shall be flat against the façade, or mounted projecting from the façade;
- 2) Signs that project from buildings shall have at least ten (10) feet of clearance from the ground level;
- 3) Signs shall be externally lit from the front. Back lighting of signs shall not be used;
- 4) Neon, flashing signs, moving signs and roof signs shall not be used;
- 5) Temporary signs with a specific date of expiration, such as sandwich boards, shall be allowed, after approval by the Zoning Enforcement Officer;
- 6) Signs shall be made of attractive materials consistent with the character of the district. Materials may include wood (painted or natural), stone, copper, brass, galvanized steel, painted canvas or paint/engraved on façade surface;
- 7) Signs may only be incorporated into the skirt of awnings and not on the primary angled surface.

C. Site Design

- 1) Parking areas shall be located in the rear of buildings;
- 2) Street level frontage shall be devoted to entrances, shop windows or other displays;

- 3) Clear pedestrian pathways shall be provided between buildings on the same lot and between buildings on adjacent lots to ensure a continuous pedestrian pathway throughout the district;
- 4) Where residential neighborhoods abut commercial, office or mixed use developments, appropriate transitional features shall be used and may include landscaping, open space or parks, or streets with clearly designed pedestrian features;
- 5) Primary entrances to proposed and existing buildings are situated on pedestrian amenities (e.g., sidewalks, plazas or open space) with a minimum width of 10 feet;
- 6) Setbacks are consistent with the fabric of the existing street and do not preclude pedestrian access;
- 7) Adequate access for loading and emergency vehicles is maintained on one side of the building; and
- 8) Adequate natural lighting and air circulation for businesses and residents is maintained.

Commentary: The range of setbacks and minimum sidewalk width listed above assume that the right-of-way will not be providing any pedestrian amenity for the site. For example, if the right of way is owned by the state, then the community will need to rely exclusively on their power to regulate design within the front setback for pedestrian movement. If the community does own the right of way and has five-foot sidewalks along the edge of pavement, then the minimum setbacks can be reduced to account for those sidewalks. In the end, the pedestrian realm must be at least ten feet wide to have a properly functioning sidewalk that includes primary walking space, space for landscaping or street trees, space for lighting, signage areas, etc.

9. Village Center Overlay District Special Permit

Applicants may apply for, and the Planning Board may grant, a Village Center Overlay District (VCOD) Special Permit subject to the following provisions.

- A. Purpose: In addition to those purposes listed in Section 1 of this bylaw, the purpose of a VCOD Special Permit is to provide the opportunity to develop pockets of higher density, coordinated mixed use developments that include a diverse use profile and act as centers of commerce and activity within the overlay district.
- B. Eligibility: To be eligible to apply for a VCOD Special Permit, the site must contain at least [three (3)] acres of contiguous buildable land. For the purposes of this bylaw, land may be considered contiguous if it is separated by a road or by public open space that does not separate parcels in common ownership by more than two hundred (200) feet;

Commentary: Communities will want to carefully consider the size of the tract that can be included in the Special Permit process. Planning for the overlay should therefore include a comprehensive inventory of each lot size in the district to ensure that opportunities for these higher densities are not lost.

- C. Use Profile: An applicant for a VCOD Special Permit shall restrict the development to a specific general use profile that complies with the parameters listed below. The area of a particular use, other than public open space, shall be determined by dividing its Gross Floor Area (GFA) by the total GFA in the development. The Planning Board shall include continued compliance with the proposed use profile as a condition of any Special Permit granted under this Section of the Bylaw.

- 1) The development area shall not contain residential use in more than [ten percent (10%)] of the total ground floor area;
- 2) The development area shall not contain more than [sixty percent (60%)] residential use;
- 3) The proposed development area shall not contain more than [forty percent (40%)] office use;
- 4) The proposed development area shall not contain more than [forty percent (40%)] retail use; and
- 5) The proposed development area shall not contain more than [thirty percent (30%)] service industry use.
- 6) The proposed development area shall contain a minimum of [five percent (5%)] civic use and shall design at least [twenty percent (20%)] of the site as open space accessible to the public.

D. Height Bonuses: Upon petition by an applicant for a VCOD Special Permit, the Planning Board may allow for maximum building heights to be [fifty (50) feet]. The Planning Board shall not allow for buildings to have more than [four and a half (4.5) stories] above the street level grade. Applicants may increase the overall density of their project to meet these height limitation increases provided that the applicant complies with all other requirements of this bylaw including, without limitation, those for parking, design and other dimensional requirements.

Commentary: This bonus is the perhaps the most critical feature of this Special Permit process as it will act as the primary incentive for developers to create well-planned designs and to include civic uses along with open space. Local practitioners will need to make sure that the gap between the density allowed by-right and the density allowed by Special Permit is large enough to entice owners of larger sites into the Special Permit process. This bylaw allows for an additional one and a half stories to be developed above grade. However, where planners feel that higher buildings may be acceptable to the community, these higher densities should be pursued as part of the Special Permit process. Often, historic non-conforming buildings may provide a crucial point of reference to determining the ultimate height bonus that could be allowed. Where an existing landmark building is sixty feet tall, for example, this height is a good candidate for the building height bonus.

E. Frontage: As part of a VCOD Special Permit application, the Planning Board may authorize frontage as low as [forty (40)] feet.

Commentary: The flexibility for frontage is designed to accommodate the often irregular patterns of physical ownership in coordinated or campus style developments. In these situations, it may be necessary to allow for irregularly shaped lots such as the so-called “flag” or “pork chop” lots. Communities should also examine requirements for “lot width” to ensure that these irregular lot configurations can take place.

F. Additional Design Standards: In addition to those design standards listed in Section 8 of this bylaw, applications for a VCOD Special Permit shall also meet the following standards:

- 1) Buildings

- (a) Newly constructed building façades for non-residential use shall have a transparency of at least sixty percent (60%)
- 2) Signs
 - (a) Freestanding directory signs may be permitted as part of a VCOD Special Permit application where several non-residential operations are accessed through a common vehicular entrance. Such freestanding signs shall not exceed eight (8) feet in height, six (6) feet in width and each tenant shall be allowed a maximum of four and a half (4.5) square feet to display the company or agency name.
- 3) Site Design
 - (a) Buildings shall be arranged in a manner that optimizes the ability of residents and consumers to access public spaces and pedestrian amenities.
 - (b) Buildings shall be oriented toward each other in a way that minimizes conflicts between pedestrians and automobiles.
 - (c) Open space provided pursuant to Section 9.C of this bylaw shall be designed as a public gathering place. Arcades, courtyards, parks, greens or other common areas shall be located in a manner that connects buildings to each other and to public sidewalks without interruption from parking areas or automobile travel lanes to the greatest practicable extent.
 - (d) Features that may be used to create open space areas acceptable to the Planning Board may include, without limitation, fixed benches, fixed tables, fountains, pathways, bikeways, bicycle racks, period lighting, shade trees, perennial gardens, picnic areas, and/or trash receptacles.
- G. Open Space Ownership and Maintenance: As a condition of a Special Permit, the Planning Board shall require an applicant to document ownership of open space within the proposed development and to provide a detailed maintenance schedule to ensure the long term care of open space areas.
- H. Application Process and Requirements: Applicants for a VCOD Special Permit shall comply with the Special Permit Procedures outlined in [REFERENCE STANDARD SPECIAL PERMIT SECTION OF ZONING BYLAW] and shall provide all applicable information for a Full Site Plan Review pursuant to [REFERENCE STANDARD SITE PLAN REVIEW SECTION OF ZONING BYLAW]
- I. Decision: The Planning Board may approve an application for a VCOD Special Permit with those conditions specified in this bylaw pursuant to the following criteria:
 - 1) Proposed development is consistent with the purposes listed in Section 1 and Section 9.A of this bylaw;
 - 2) All applicable standards for use, parking and dimensional requirements are met;

- 3) All applicable design standards listed in Section 8 are met;
- 4) All applicable additional design standards listed in Section 9.E are met;
- 4) Where multiple structures are proposed, the site design reflects a thoughtful arrangement of elements that will facilitate the movement of pedestrians between structures through the use of sidewalks, internal walkways, alleys or open space features as required in Section 9.E.3;
- 5) The applicant has provided adequate documentation to ensure that the use profile within the development shall permanently comply with those restrictions listed in Section 9.C; and
- 6) The applicant has provided adequate documentation to ensure that the required open space within a proposed development shall be adequately and permanently maintained.

10.0 Severability.

If any provision of this bylaw is held invalid by a court of competent jurisdiction, the remainder of the bylaw shall not be affected thereby.