

# CITY OF BURLINGTON

In the Year Two Thousand Twenty-Two

## An Ordinance in Relation to

ZA-23-01 South End Innovation District Overlay

ORDINANCE \_\_\_\_\_

Sponsor: (Department or Councilor) \_\_\_\_\_

Public Hearing Dates: \_\_\_\_\_

First reading: \_\_\_\_\_

Referred to: \_\_\_\_\_

Rules suspended and placed in all stages of passage: \_\_\_\_\_

Second reading: \_\_\_\_\_

Action: \_\_\_\_\_

Date: \_\_\_\_\_

Signed by Mayor: \_\_\_\_\_

Published: \_\_\_\_\_

Effective: \_\_\_\_\_

It is hereby Ordained by the City Council of the City of Burlington as follows:

That Appendix A, Comprehensive Development Ordinance, of the Code of Ordinances of the City of Burlington be and hereby is amended by amending Sections 4.4.3 Enterprise Districts; creating Sec. 4.5.8: South End Innovation District Overlay; amending Sec. 9.1.12 Additional Density and Other Development Allowances; amending Appendix A: Comprehensive Use Table; creating Maps 4.5.8-1 South End Innovation District Overlay District, 4.5.8-2 Specific Height Area Map, and Map 4.5.8-3 Frontage and Ground Floor Activation Standards; and amending Appendix A- Use Table; and amending Article 13 Definitions, thereof to read as follows:

### Sec. 4.4.3 Enterprise Districts

#### (a) Purpose:

The ~~two~~ Enterprise districts as illustrated in Map 4.4.3-1 are described as follows:

1. The **Light Manufacturing** (E-LM) district is the ~~traditional~~ commercial/industrial center of Burlington, and, in those is intended primarily to accommodate enterprises engaged in the manufacturing, processing, distribution, design, creating, repairing, ~~renovating, painting, cleaning,~~ or assembling of physical and digital goods, merchandise, ~~or~~ equipment, or art without appropriate mitigations from potential conflicts ~~from with~~ nearby or interspersed residential uses. This district is intended to ensure that sufficient land area is appropriately designated within the city to provide an adequate and diversified economic base that will facilitate high-density job creation and retention, including in the evolution of traditional industries as well as burgeoning maker and high-tech industries. This district is primarily intended to provide for various industrial and commercial uses, with specific provisions and limits intended to preserve and enhance areas of varied character throughout district. Other accessory commercial uses, and in very limited cases residential uses, are allowed to support the wide range of services and employment opportunities desired in the district, and support uses suitable for location in adjacent areas of ~~proximity to~~ residential development. Development is intended to respect interspersed historic industrial buildings, and reflect the industrial aesthetic of the district's past. Parking is intended to be hidden within, behind, or to the side of structures. This district includes the E-SEID overlay which is intended to facilitate the redevelopment of a central portion of the E-LM into a walkable, mixed-use innovation district consistent with the long-range plans for this area.

2. As written.

#### (b) Dimensional Standards and Density

The density and intensity of development, dimensions of building lots, the heights of buildings and their setbacks from property boundary lines, and the limits on lot coverage shall be governed by the following standards:

*Table 4.4.3 -1 Dimensional Standards and Density*

Districts	Max. Intensity (floor area ratio <sup>1,4</sup> )	Max. Lot Coverage <sup>1,4</sup>	Minimum Building Setbacks <sup>1,4</sup> (feet)			Max. Height <sup>1,4</sup> (feet)
			Front	Side	Rear <sup>3</sup>	
Light Manufacturing	2.0 FAR	80%	5 min	0 <sup>2</sup>	10% <sup>2</sup>	45'
Agricultural Processing and Energy	0.75 FAR	60%	10 min	10 min	10 min	45'

1 – Floor area ratio is further described in Art 5. Measurement of and exceptions to coverage, setback, and height standards are found in Art 5. Actual maximum build out potential may be reduced by site plan and architectural design considerations of Art 6.

2 – Structures shall be setback a minimum of 25-feet along any zoning district boundary line that abuts a residential zoning district. Lots of record existing as of September 9, 2015 that are split by enterprise and residential zones are exempt from this district boundary setback.

3 – Percentage of the lot depth.

4 – Maximum intensity, lot coverage, setbacks and building height in portions of this district are being modified by provisions of the South End Innovation District overlay (SEID) in Sec. 4.5.8.

**(c) Permitted and Conditional Uses:**

- The principal land uses that may be permitted, or conditionally permitted pursuant to the requirements of Article 3, within the Enterprise districts shall be as defined in Appendix A – Use Table.
- Within the E-LM district, uses unrelated to Industrial or Art Production are permitted to be located on lots south of Home Avenue only when both of the following conditions are satisfied. For lots north of Home Avenue within the EL-M district, this standard does not apply.:

a. One or more Industrial and/or Art Production use(s) exists on the lot; and

a.b. When the combined gross floor area of all such uses does not exceed 49% of the Gross Floor Area on the lot. Uses limited by this provision are identified by Footnote 27 in Appendix A Use Table. The combined gross floor area (GFA) of all other use(s) does not exceed 49% of the gross floor area on the lot. Uses limited by this provision are identified by Footnote 27 in Appendix A Use Table; all uses marked as conditional use or with additional footnotes in Appendix A continue to apply.

- Uses that may be permitted, or conditionally permitted within the South End Innovation District overlay (SEID) are identified on Table 4.5.8-3.

**(d) District Specific Regulations:**

- Convenience Stores.

The following shall apply to the review and approval of convenience stores in the E-LM district, except as regulated in Sec. 4.5.8: South End Innovation District, in addition to the provisions for the review of Conditional Uses under Art. 3 and General Regulations for convenience stores under Art 5:

- Convenience stores in the E-LM district shall only be allowed on properties fronting on Pine Street, and must be sited at least 2,000 linear feet, measured lot line to lot line, from any other convenience store in

the E-LM district;

- B. A convenience store shall not contain more than 5,000 square feet of gross floor area;
  - C. If located at a street intersection, the nearest edge of any curb cut shall be located as far as possible from any intersections with a minimum distance of 50 feet from an intersection as measured from the corner of and along the lot line of the site;
  - D. Approval shall be granted only if, in addition to the general conditional use standards listed in Sec. 3.5.6, the DRB determines that a proliferation of convenience stores is not threatening the primary intent of the E-LM district for industrial purposes, as stated in Section 4.4.3 (a) 1; and,
  - E. Convenience stores that obtain a conditional use permit within the E-LM District may include gasoline pumps provided the total square footage occupied by pumps, pump islands and vehicular space(s) at a pump filling station is the lesser of 1,850 s.f. or 50% of the gross floor area of the enclosed convenience store.
2. Drive Thrus are not permitted.

#### **Sec. 4.5.8 Enterprise – South End Innovation District Overlay**

##### **(a) Purpose**

The Enterprise – Innovation District Overlay (E-ID) is intended to implement the long-range plan for an area of the South End by providing for a dense, vibrant and dynamic urban district. The overlay is unique in its allowance for residential uses in a small area of the Enterprise-Light Manufacturing District (E-LM), and that it limits the most intensive manufacturing and industrial uses allowed elsewhere in the district. The overlay prioritizes arts and employment uses within an amenity-rich, convenient urban residential neighborhood, while permitting in a limited fashion non-residential uses that are secondary to, but supportive of those primary objectives.

Development is intended to be dense and highly sustainable. Lot coverage standards permit significant development but require a high degree of permeable surfaces achieved through green stormwater infrastructure. Buildings should range in height from one to eight stories, and should be constructed of materials and in manners that limit embodied carbon and achieve the highest possible energy performance permitted by Vermont Building Code. Sites should incorporate ample public and private open spaces and include extensive networks of accessible paths that are free of cars. Streets should be constructed in a manner that allocates the majority of their space to pedestrians and cyclists. Buildings should be oriented to the public realm – streets, paths and open spaces, in a manner that creates a safe and inviting district. Site and building design should support public and ecological health to the highest possible degree.

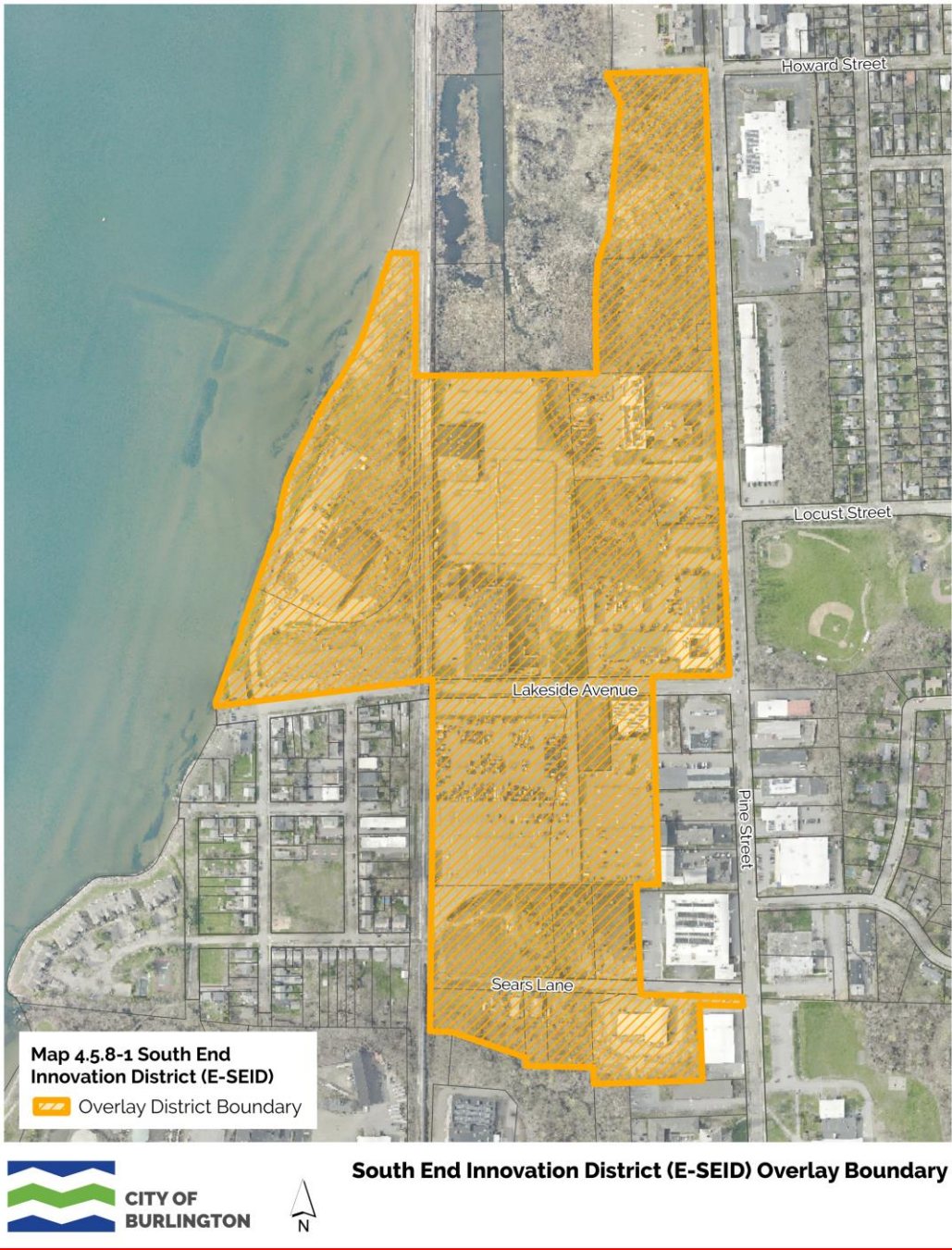
Parking should be hidden behind structures, including perimeter buildings or screening devices. Where possible, parking structures should be located along the most heavily trafficked roads to encourage residents, employees and visitors who arrive by car to park at the district's edge and travel on foot, by bike, or other mode of transportation that is compatible with Burlington's climate objectives. Special consideration should be given to the design and construction of parking structures to allow for their renovation to other uses in coming decades as Burlington evolves from car dependence.

##### **(b) Areas Covered.**

The Enterprise – South End Innovation District includes those portions of the E-LM Zoning District as delineated on Map 4.5.8-1.

Map 4.5.8-1 SEID Overlay





**(c) District Specific Regulations**

**1. Dimensional Standards & Density**

Within the South End Innovation District Overlay the standards set forth in *Table 4.5.8-1* shall apply to new development and redevelopment, except:

- a. Floors 7-8 may increase maximum size to 15,000 sq.ft. per floorplate for buildings constructed of mass timber consistent with currently adopted Building Code as contained under Chapter 8 of the City Code of Ordinances, or in buildings certified as meeting in one or more of the Green and High Performance Building Standard systems:
- Passive House Certification as administered by Passive House Institute (PHI or PHIUS);
  - Gold Certification or higher under the applicable LEED standard as administered by Green Businesses Certification, Inc. (GBCI); or,
  - Petal or Net Zero Energy Certification under the Living Building Challenge as administered by International Living Future Institute (INFI).
- b. The maximum lot coverage may be increased by 10%, to a maximum of 90%, if the site is certified as Gold or Platinum under the SITES system, as administered by Green Business Certification, Inc. (GBCI) or if all of the pervious area on the lot is constructed from one or more of the following Green Stormwater Management (GSI) techniques: constructed wetland, suspended pavement planted with one shade tree per 250 square feet of area, or pervious pavement. No more than 50% of the GSI area may utilize pervious pavement.

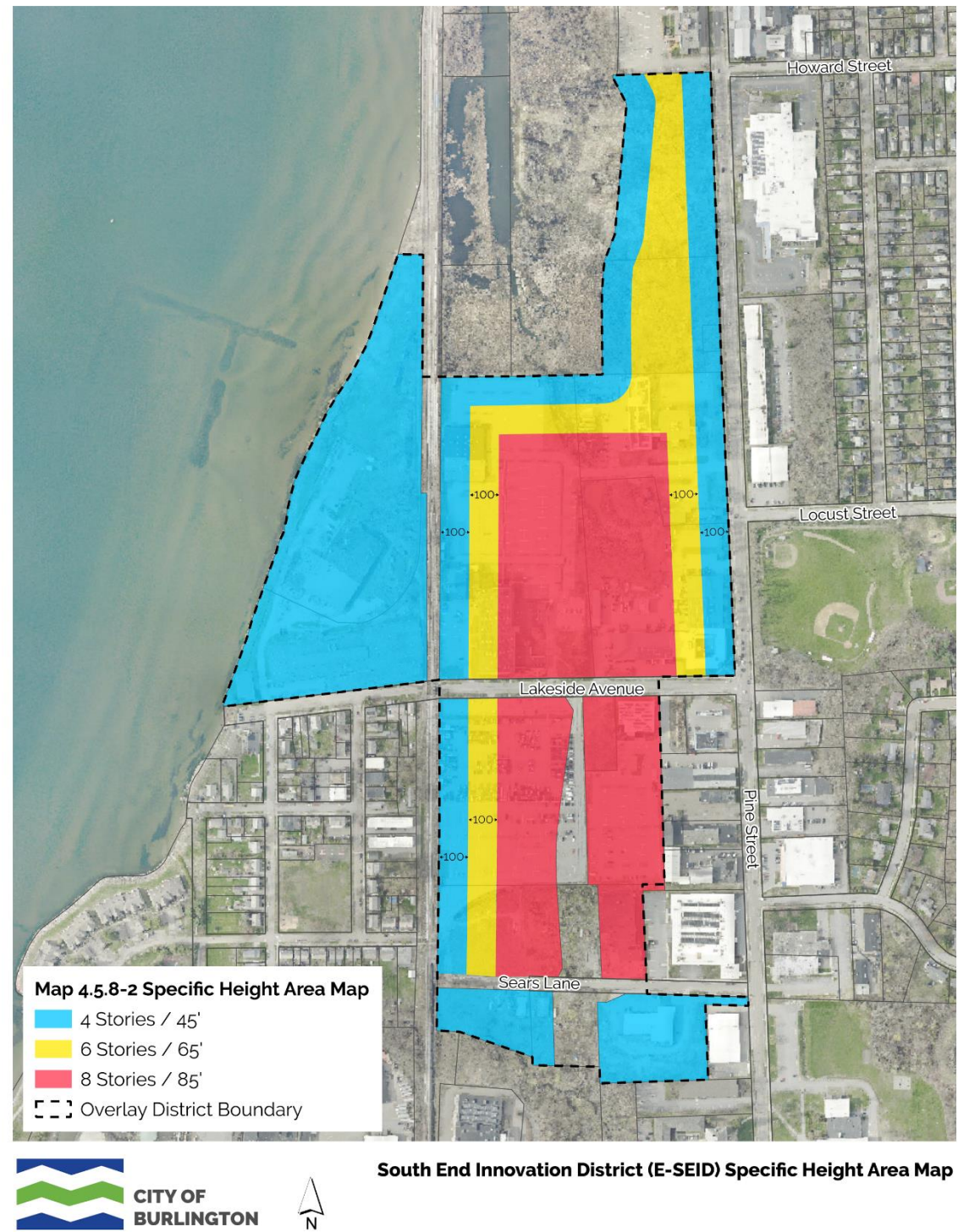
**Table 4.5.8-1: SEID Dimensional Standards & Density**

<b><u>Block Perimeter<sup>1</sup></u></b>	<b><u>Max. Intensity (floor area ratio<sup>2</sup>)</u></b>	<b><u>Max Building Size per Floorplate<sup>3, 4</sup></u></b>	<b><u>Max. Lot Coverage &amp; Pervious Surface Required<sup>5</sup></u></b>	<b><u>Minimum Building Setbacks</u></b>			<b><u>Max. Height<sup>7</sup></u></b>
				<u>Front</u>	<u>Side</u>	<u>Rear</u>	
<u>1,600' max</u>	<u>2.25 FAR</u>	<u>Floors 1-6: 15,000 sq.ft.</u> <u>Floors 7-8: 10,000 sq.ft.</u>	<u>80% max impervious</u> <u>25% min of pervious area must utilize GSI</u>	<u>0' min</u> <u>20' max<sup>5</sup></u>	<u>0' min</u> <u>20' max<sup>5</sup></u>	<u>0' min</u> <u>20' max<sup>6</sup></u>	<u>85'</u>

- Blocks may be enclosed by any combination of public streets and public paths.
- Floor area ratio is described in Sec 5.2.7. Bonuses for additional FAR for inclusionary housing projects, is described in Sec. 9.1.12.
- Maximum square footage applies to each floorplate.
- One parking structure per lot established as of January 1, 2023 may exceed the 15,000 sq. ft. floorplate maximum standard according to the following:
  - When the structure contains a transit use, the maximum floorplate is 60,500 sq. ft., or
  - When the structure does not contain a transit use, the maximum floor plate is 30,000 sq. ft.
- At least 25% of the pervious area on a lot must include one or more of the following Green Stormwater Management (GSI) techniques: constructed wetland, suspended pavement planted with shade trees, or pervious pavement. No more than 50% of the required GSI area may utilize pervious pavement.
- Setbacks are measured from the property line; however, buildings must be at least 15' from the curb or edge of ROW if no curb exists.
- Maximum building height in the E-SEID shall be further limited by Map 4.5.8.3: SEID Specific Height Area Map

**Map 4.5.8-2 SEID Specific Height Area Map**





## 2. Frontage and Ground Floor Activation Standards

- A. Lot Frontage Occupied by Buildings: Buildings shall be placed on a lot such that they frame public and private streets and pathways. The percentage of a lot's frontage that must be occupied by a building(s) located between the minimum and maximum setback is determined by Table 4.5.8-2.
- (i) Primary and Secondary frontages must be identified by the property owner. Each block must contain at least one Primary frontage.
- (ii) A lot's frontage buildout may be reduced by up to 10 percent upon the determination of the Zoning Administrative Officers that the relief is necessary to access to the rear of the lot as a result of lot width or building placement constraints.

Table 4.5.8-2: Frontage and Activation Standards

<u>Frontage Type</u>	<u>Min lot frontage occupied by buildings<sup>1</sup></u>	<u>Percent of building frontage containing non-residential uses</u>	<u>Ground floor entries required</u>
<u>Primary</u>	<u>80% min</u>	<u>80% min</u>	<u>Every 60' min</u>
<u>Secondary</u>	<u>70% min</u>	<u>20% min or 500 sq.ft., whichever is greater</u>	

1) Measured linearly, and excludes area utilized for interior private streets, drives, and non-vehicular pathways.

- B. Building Frontage Occupied by Non-Residential Uses: Buildings fronting on public or private streets and pathways, including those inaccessible by vehicles, must contain a minimum amount of non-residential uses on the ground floor as determined by Table 4.5.8-2.
- i. Building corners, when located at the intersection of two public rights-of-way, including streets and paths, must include non-residential uses.
- ii. A minimum of 80% of a building's required ground floor non-residential use floor area must be at least 25 ft. deep from the building façade, measured orthogonally. The remaining 20% must be at least 10 ft. deep.
- iii. On lots where new interior streets are provided, Primary and Secondary frontages must be identified by the property owner.
- iv. The minimum non-residential frontage requirements may be reduced to 30% for Primary Frontages and 0% for Secondary Frontages if one or more of the following is achieved:
- a. All non-residential ground floor uses are maintained as affordable for at least 30 years, as defined and administered by the Community and Economic Development Office (CEDO).
- b. A detached, one- or two-story permanent structure containing non-residential uses is constructed within or adjacent to the public realm, including public rights-of-way and public open space, on the same lot. The amount of non-residential use required on a building's ground floor may only be reduced on one-to-one basis as determined by the square footage of the detached structure.
- c. A building is placed adjacent to one or more publicly accessible open spaces on the same lot. Such open spaces must be at least 4,000 sq.ft. in area and no portion of the open space may have a dimension less than 10 feet. Qualifying open spaces may be located in an interior courtyard, to the side, or in front of the building for which a reduction in ground floor non-residential use is being sought.
- d. A building containing residential uses includes an allocation of at least 10% three-bedroom units and 15% percent two-bedroom units.
- C. Ground Floor Entries: At least one ground floor public entry, not including service doors, is required each 60' linear feet of each building façade fronting on a public or private street or open space.

**3. Parking**

- A. Surface Parking Lots consisting of no more than five spaces are permitted only when associated with and adjacent to a principal building. In such lots, priority parking spaces shall be made available, as described in Sec. 8.1.16 (c) c.4 – Parking Management. No more than 20 total spaces may be permitted in Surface Parking Lots on any one lot. Parking is not permitted between a building and the street or path on which it is located.
- B. On-street parking spaces shall be permitted on lots with new private streets. Such parking spaces must be parallel in orientation.
- C. Structured Parking Garages
- i. With the exception of individual Garages serving a multifamily dwelling which shall be accessed from the rear of the building via a public or private alley, all Parking Structures and Garages shall be located behind a Perimeter Building, or screened so that cars and internal structure lighting are not visible from adjacent streets or properties. Screening can be provided by architectural structure or vegetative trellis.
  - ii. Parking Structure ingress/egress shall be consolidated into one façade opening and shall not exceed 24 feet in width or shall be separated into no more than two openings per façade, with a combined width of no more than 28 feet. Each façade opening shall not exceed 16 feet clear height.
  - iii. At least one pedestrian route shall lead directly to each Frontage Line (i.e. not directly into a Building). When portions of a Building containing parking front on more than one street, multiple pedestrian routes to the Frontage are strongly encouraged.

**4. Uses**

Within the E-ID, only the following uses shall be permitted.

**Table 4.5.8-3 Uses Permitted & Limited within the SEID**

<b><u>Permitted Uses:</u></b>	
<b><u>Residential<sup>1</sup></u></b>	
<u>Assisted Living</u>	
<u>Attached Dwellings - Multi-Family</u>	
<u>Co-Housing</u>	
<u>Convalescent/Nursing Home</u>	
<u>Emergency Shelter</u>	
<u>Group Home</u>	
<u>Dormitory</u>	
<b><u>Non-Residential</u></b>	
<u>Adult Day Care</u>	<u>Photo Studio</u>
<u>Agricultural Use</u>	<u>Photography Lab</u>
<u>Animal Grooming</u>	<u>Place of Worship</u>
<u>Animal Hospital/Veterinarian's Office</u>	<u>Printing Plant</u>
<u>Art Gallery/Studio</u>	<u>Printing Shop</u>
<u>Bakery</u>	<u>Public Transit Terminal</u>
<u>Bank/Credit Union</u>	<u>Public Works Yard/Garage</u>



<u>Permitted Uses:</u>	
<u>Bar/Tavern</u>	<u>Radio &amp; TV Studio</u>
<u>Beauty/Barber Shop</u>	<u>Recording Studio</u>
<u>Bicycle Sales/Repair</u>	<u>Recreational Facility - Outdoor</u>
<u>Billiard Parlor</u>	<u>Research &amp; Development Facility</u>
<u>Bowling Alley</u>	<u>Research Lab</u>
<u>Cafe</u>	<u>Restaurant</u>
<u>Cinema</u>	<u>Restaurant – Take Out</u>
<u>Community Center</u>	<u>Salon/Spa</u>
<u>Community Garden</u>	<u>School – Post-Secondary and CC</u>
<u>Convenience Store</u>	<u>School - Preschool</u>
<u>Daycare</u>	<u>School - Primary</u>
<u>Fire Station</u>	<u>School - Secondary</u>
<u>Food &amp; Beverage Processing</u>	<u>School – Trade, or Professional</u>
<u>General Merchandise – Small ≤ 10,000 sf</u>	
<u>Grocery Store ≤ 10,000 sf</u>	
<u>Health Studio</u>	
<u>Hotel<sup>2</sup></u>	
<u>Laundromat</u>	
<u>Library</u>	
<u>Manufacturing - Light</u>	
<u>Mental Health Crisis Center</u>	
<u>Museum – Small ≤ 10,000 sf</u>	
<u>Office - General</u>	
<u>Office – Medical/Dental</u>	
<u>Office - Technical</u>	
<u>Open Air Markets</u>	
<u>Park</u>	
<u>Parking Garage<sup>3</sup></u>	
<u>Parking Lot<sup>3</sup></u>	
<u>Performing Arts Center</u>	
<u>Performing Arts Studio</u>	
<u>Pharmacy</u>	

1. Residential uses are permitted only in new additions to buildings that existed as of January 1, 2023, or in buildings built after January 1, 2023.

2. One hotel is permitted per lot established as of January 1, 2023 and may not account for more than 80 percent of the Gross Floor Area of the building in which the use is located.

3. Parking Garage and Lot uses are regulated by Sec. 4.5.8(c) 3 Parking and Table 4.5.8-1 SEID Dimensional Standards & Density.

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**Article 9 Inclusionary and Replacement Housing****Sec. 9.1.12 Additional Density and Other Development Allowances**

All covered projects shall be entitled to increases in the development allowances of the underlying zoning district in accordance with the provisions of this section.

- (a) Any covered project shall be entitled by right to an increase in the maximum lot coverage density/intensity, and, where applicable, height allowed for the lot(s) on which the project is located. Calculations for these entitlements shall be based on the following tables:

Zoning District	Maximum Units/Acre	FAR/Height	Maximum Lot Coverage
<b>RH</b>	46	12' height set back 10' along street facade <sup>1</sup>	92%
<b>RM</b>	25	n/a	48%
<b>RM-W</b>	25	12' height set back 10' along street facade <sup>1</sup>	72%
<b>RL, RL-W</b>	8.75	n/a	44%
<b>FD6, FD5</b>	n/a	0.5 FAR	100%
<b>NMU, NAC, NAC-R</b>	n/a	0.5 FAR+12' height set back 10' along street facade	92%
<b>NAC-CR</b>	n/a	0.5 FAR+12' height set back 10' along street facade	72%
<b><u>E-LM-SEID</u></b>	<b><u>n/a</u></b>	<b><u>0.25 FAR</u></b>	<b><u>n/a</u></b>

1. In the RH and RM-W residential zones an additional 12 feet of building height shall be allowed by right only for an additional 5% of inclusionary housing units provided in excess of the minimum requirements of Sec. 9.1.8.

1.2. Lot coverage may be increased to 90% as per Sec. 4.5.8 (c) 1.b

- (b) The allowances provided for herein may be declined at the option of the applicant;
- (c) With the approval of the DRB, units added to a project as market rate units may be substituted by nonresidential uses wherever such nonresidential uses are otherwise permitted in the district where the project is located. Approved substitution for nonresidential uses shall occur at the following rate: 1 market-rate dwelling unit = 1,500 square feet nonresidential space
- (d) All provisions of Sec. 9.1.8 through 9.1.11 shall apply, without exception, to any inclusionary units that are constructed.

**Article 11: Planned Development****Sec. 11.1.3 General Requirements and Applicability**

With the exception of development subject to the requirements of Art. 14, any development involving multiple lots, tracts or parcels of land to be developed as a single entity, or seeking to place multiple structures and/or uses on a single lot where not otherwise permitted, may be permitted as a PUD subject to the provisions of this Article.

A planned unit development may be permitted subject to minimum project size as follows in the following districts:

Districts	Minimum Project Size
RH, RM, RM-W, Downtown Waterfront – Public Trust District and Neighborhood Mixed Use, Institutional, <u>E-LM</u>	No minimum project size.
RL, RL-W, RCO-R/G	2 acres or more

## Article 13 Definitions

*All other definitions as written.*

**Block:** The aggregate of private Lots, Passages, Rear Alleys, and Rear Lanes, circumscribed by public streets and public paths.

**Block Perimeter:** The allowable maximum distance, measured linearly, of the public streets and paths circumscribing a block.

**Bowling Alley:** An indoor facility ~~that devotes more than 50 percent of its gross floor area to~~ comprised of bowling lanes and, equipment, and ~~customary playing areas with customary accessory uses such as~~ arcades, play areas, restaurants, and snack bars.

**Co-Housing:** Multi-unit residential buildings containing individual dwelling spaces which include bathroom facilities and may or may not contain individual kitchen facilities. Within such residential buildings, residents share amenities, such as full kitchens, and open space in a communal living arrangement. In zoning districts where density limits are applicable, four (4) individual dwelling spaces shall be the equivalent of a Dwelling Unit.

**Constructed Wetland:** Stormwater treatment systems that use natural processes involving wetland vegetation, soils and their associated microbial assemblages to improve water quality.

**Floor Plate:** The above-ground gross floor area of each story of a building. Below-ground floor area is not included where maximum floor plate standards are established.

**Green Stormwater Management:** Low impact stormwater management infrastructure utilizing soil-water-plant systems to intercept stormwater and facilitate its infiltration, evaporation and release into waterbodies in a manner that promotes ecological health and environmental resilience.

**Mass Timber:** A method of construction defined as Type IV in the Building Code (International Building Code) and where the majority of structural load-bearing members are made of wood with a minimum dimension of 3.75 inches.

**Passive House:** A building construction standard that results in highly energy efficient buildings through use of airtight building envelopes, ventilation, waterproofing, heating and cooling, and electrical loads as certified and administered by Passive House Institute (PHI or PHIUS)

**Perimeter Building:** A shallow medium to large sized attached or detached Building that is always associated with and screens a parking structure or garage.

**Pervious Pavement:** Alternatives to traditional pavement that allow rain and snowmelt to infiltrate underlying layers of soil and gravel in a manner that reduces runoff and promotes pollutant filtration.

**Suspended Pavement:** A site construction technology that supports the weight of overlying pavement and creates a subsurface void that is filled with soil for root growth.

## Appendix A- Use Table

See attached

290 \* Material stricken out deleted.

291 \*\* Material underlined added.

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296 MT/Attorney's Initials/Ordinances 2022/ZA-23-01 South End Innovation District Overlay

297 08/19/22