



# AMHERST *Massachusetts*

## PLANNING BOARD

## Report to Town Meeting

### **ARTICLE 8. Zoning Amendment – Development Modification (Planning Board)**

To see if the Town will amend Table 3, Dimensional Regulations, and Articles 4, 6, 12, and 14 of the Zoning Bylaw by deleting the ~~lined-out~~ language, adding the language in ***bold italics***, and replacing language, as follows:

**[See the attached revised version of Article 8 as it will be moved]**

#### Recommendation

The Planning Board voted 5-2 to recommend that Town Meeting adopt this article.

#### Background

Article 8, Development Modification, is a large, detailed amendment which makes changes throughout the Zoning Bylaw. It is the first major zoning amendment that seeks to comprehensively implement aspects of the Master Plan. What it does and how it works can be described simply. Development Modification will replace the Phased Growth section of Zoning Bylaw as the principal method Amherst uses to guide and control its future development and growth. Like Phased Growth, Development Modification will use a point system. More points will be awarded to developments that benefit the community and are in line with community values. Points will be taken away from developments that impact the community negatively or are contrary to community values. Depending on the point total, a development could be allowed to get bigger (more dwelling units, larger buildings), or it could stay the same, or it could be made smaller (fewer dwelling units, smaller buildings). This will encourage developers to propose developments that Amherst wants, and avoid proposing developments that do not meet Amherst's needs.

#### Why Do We Need To Do This?

The Phased Growth Bylaw has been Amherst's principal way to guide and control development for 23 years. It was adopted in November 1987 during an emergency moratorium on the issuance of building permits. At that time, there were over a thousand building permits for residential units 'in the pipeline' and there was concern over the community's ability to provide basic services. Phased Growth

ceases to exist on November 15, 2010, based on a sunset clause in the Zoning Bylaw.

Phased Growth controlled growth by ‘phasing’ the number of building permits that could be issued in a given year. In August 2004, this method of “growth restraint” was ruled unconstitutional by the Massachusetts Supreme Judicial Court. Under the court’s decision, extension of “growth restraint” zoning would only be legal if a community was in the process of working on a master plan and new zoning to replace such phasing. The Planning Board has been working on creation of the Development Modification amendment for over two years, and adopted Amherst’s Master Plan in February 2010.

The sky will not fall if Phased Growth lapses and Development Modification is not adopted. Amherst will still have the current Site Plan Review and Special Permit review process. However, for the first time in 23 years, Amherst will not have a mechanism for consistently enforcing community values in the Zoning Bylaw’s permit review process, to help guide new growth and development. The Planning Board believes that it is important to have such a mechanism, and urges adoption of Article 8.

### What Does This Apply To?

*Only Residential & Mixed Use Projects* - Development Modification only applies to residential or mixed use projects (projects with residential and commercial uses in the same building).

*Only Bigger Projects* – Development Modification only applies to projects above a threshold of 4 or more new units in ‘outlying’ residential zoning districts and 6 or more new units in ‘center’ business and residential zoning districts. These thresholds ensure that smaller projects will not be burdened by this system of permitting control. It would apply only to projects that are big enough to have potentially significant impacts, and which will involve professional consultants as a matter of course.

Smaller residential or mixed use projects, or purely commercial or institutional projects, would be regulated under the current Special Permit and Site Plan Review controls, as they are now.

### How Will This Work?

As is currently done under Phased Growth, applicants would have to submit a form showing the points they believed their project was entitled to under Development Modification, and a total point score. They would also submit preliminary project designs showing what would be possible without Development Modification, and what the applicant believed they could do if their proposed total point score was accepted.

Staff would review each proposal for accuracy and prepare a memo highlighting important issues to the permitting board, as they do now for Phased Growth. Following the public hearing, the Planning Board or Zoning Board of Appeals would decide how many points a project was actually entitled to, which would determine whether it would be allowed to get bigger or would be made smaller.

Many of the measures of community value used in the Development Modification point system come from the Phased Growth bylaw, but are more detailed and include significant community priorities

identified in the Master Plan. See the handouts in which elements of the Phased Growth Bylaw and Master Plan's Key Directions are highlighted, and the summary of Master Plan Objectives and Strategies being implemented through Development Modification.

### What Does This Encourage?

By design, Development Modification includes only six of the most important community criteria:

**Affordable & Diverse Housing** – Encouraging affordable, accessible and diverse housing

- Residential Development Methods – Discouraging standard subdivisions in favor of clustered development

**Centers & Mixed Development** – Rewarding sustainable new development located where goods and services already exist, to prevent sprawl

**Critical Natural Resource Protection**

- Aquifer & Watershed – Protecting public water supplies
- Wetlands & Wildlife Habitat – Protecting critical environmental areas
- Floodprone Areas – Protecting against flooding and environmental damage
- Critical Farmland – Protecting our remaining farmland

**Critical Historic Resources** – Maintaining community character and protecting our heritage

**Sustainable Site & Building Design** – Responsible siting and energy use

**Transportation** – Ensuring appropriate development locations and encouraging public transit.

Community criteria that were considered but are not yet part of Development Modification include the following:

*Commercial/Institutional Development* – Encouraging sustainable non-residential development

*Services & Facilities* – Encouraging new development to provide improvements or contributions to Amherst's infrastructure—this is already substantially addressed under the current Special Permit or Site Plan Review permitting

*Land Resource-Based Economic Development* – Encouraging Amherst's farming and land resource-based economy

*Natural Resource Amenities* (all three are partially addressed in Development Modification)

- Open Space & Parkland
- Public Trees
- Scenic Views

*Critical Cultural Resources* – Actions protecting cultural diversity and resources, and supporting the arts.

Strong arguments could be made for including all of those, and more, as the community acquires experience using this system of development control. However, when starting out with any new major development regulations, it is important to keep them as simple as possible, to ensure that they can be used well by permit granting boards and applicants alike.

Public Hearing

After two years of public meetings and discussion, the Planning Board held a public hearing on Article 8 on October 6, 2010. After further discussion and public comment, the Board voted 5-2 to recommend that Town Meeting adopt this article.

The two dissenting members supported the concept of development modification, but were concerned about the length and complexity of the proposed regulations, fearing they might be too cumbersome. One expressed concern that developers might focus more on trying to address the details in the weighted point system, and less on the overall quality of their development proposals.

## Article 8. Zoning Amendment - Development Modification (Planning Board)

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**NOTE: This is the revised version of Article 8 as it will be moved by the Planning Board. Differences from the article language in the warrant include:**

- In Section 14.221, revisions to the area thresholds and point values regarding wetlands and wildlife habitat, responding to requests from the Conservation Commission
  - In Section 14.34, correcting erroneous reference to “lot coverage” to instead refer to “building coverage”
  - To correct scribes’ errors by adding a minus sign to the points assigned for Sections 14.2212, 14.2230, 14.22350, 14.22351, and 14.22352.
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To see if the Town will amend Table 3, Dimensional Regulations, and Articles 4, 6, 12, and 14 of the Zoning Bylaw by deleting the ~~lined-out~~ language, adding the language in ***bold italics***, and replacing language, as follows:

- A. **Remove the current Article 14, Phased Growth, in its entirety, and replace it with the following new article:**

### ARTICLE 14 DEVELOPMENT MODIFICATION

#### ***SECTION 14.0 INTENT & PURPOSE***

The purpose of this Article is to ensure that growth and development in Amherst occur in an orderly and planned manner, in accordance with the recommendations of the Master Plan adopted by the Planning Board. This Article is intended to encourage types and patterns of residential and commercial growth which reflect the values of the community, to mitigate the impacts of such development, and to maintain high quality municipal services for an expanding population.

#### **SECTION 14.1 REGULATIONS**

##### **14.10 GENERAL REGULATIONS & ASSIGNMENT OF POINTS**

The regulations of this Article shall apply to all residential and mixed use development in Amherst. In those zoning districts in which Table 3, Dimensional Regulations, establishes a maximum residential density through the use of minimum lot area and additional lot area/family, the Permit Granting Board shall, or the Special Permit Granting Authority may, as applicable, modify the residential density (number of dwelling units) for residential or mixed uses under Article 3 and residential developments under Articles 4 and 6 as part of the approval of any development. Similarly, for mixed uses under Section 3.325 the Permit Granting Board shall, or Special Permit Granting Authority may, as applicable, modify the dimensional requirements under Table 3 for building coverage (percent of lot covered by buildings), maximum floors,

height and other dimensions, as provided under Section 14.3.

14.100 The provisions of this section shall be applied only to residential uses, residential developments, residential accessory uses, and mixed uses under Section 3.325 meeting the following thresholds:

In the ‘outlying’ (R-N, R-O, and R-LD) districts – A net total of four (4) or more new dwelling units.

In the ‘center’ (B-G, B-L, B-VC, B-N, COM, R-G, R-VC and R-F) districts – A net total of six (6) or more new dwelling units.

14.101 Under Sections 14.2 and 14.3 of these regulations, wherever a single positive or negative point score is shown and the application meets the criteria of the section in question, that point score and no other shall be assigned. An exception shall be where Permit-Granting Board or Special Permit Granting Authority determines that the assignment of the points depends upon a characteristic or quality of the proposed development or subject property which is partial; for example, where a subject property is located in more than one zoning district. In such instances, the points assigned shall be pro-rated based upon the percentage of the characteristic or quality present as determined by the Permit-Granting Board or Special Permit Granting Authority. Wherever a range of potential points is shown, the Permit-Granting Board or Special Permit Granting Authority shall apply such standards or criteria as it deems necessary and appropriate to determine the appropriate point score. In all cases, points assigned shall not exceed the minimums or maximums shown. Unless otherwise specified, developments shall be eligible for all points for which they qualify.

14.102 Nothing in this section shall be construed as limiting the authority of the Special Permit Granting Authority to grant, modify or deny an application for a Special Permit under this section or to impose such conditions, safeguards and limitations on an application as are consistent with the provisions of Sections 10.3 and 10.4 of this Bylaw.

14.103 The provisions of this section shall not apply to those projects for which a valid Site Plan Review application was received prior to [date of adoption].

## **14.2 MODIFICATION POINT SYSTEM**

The Permit Granting Board or Special Permit Granting Authority, as applicable, shall assign points to eligible developments under the following categories of public welfare. Points assigned in each category shall be cumulatively totaled and applied to Section 14.30, Development Modification Table, to determine what modifications, if any, shall be applied to the residential unit count or dimensional aspects of a proposed development. All applications for definitive subdivisions, Special Permits, and Site Plan Review approval eligible under Section 14.10 shall include a proposal from the applicant for the assignment of points under this section and a resulting point total.

## 14.20 HOUSING DEVELOPMENT

It is the policy of the Town of Amherst to encourage a full and diverse mix of housing serving all residents. The provisions of this section are intended to act in concert with the other provisions in this Bylaw addressing affordable housing, density bonuses, and inclusionary requirements.

### 14.200 AFFORDABLE & DIVERSE HOUSING

It is the policy of the Town of Amherst to preserve and expand the community's supply of low and moderate income affordable housing.

14.2000 Any development meeting the thresholds established under Section 14.10 which includes 25% or more of its units as affordable housing for low income households as defined under Article 12 and as eligible to be counted under the Subsidized Housing Inventory (SHI) maintained by the Mass. Dept. of Housing and Community Development or its successor under the provisions of MGL Ch. 40B, and which is subsidized by federal, state or local programs, or proposed by the Amherst Housing Authority, or by a non-profit or limited dividend partnership, or by a municipal housing trust under the provisions of MGL Ch. 44, Section 55C, or any development which includes 25% or more of its units as non-subsidized housing units priced to be affordable to households whose income is equal to or less than 80% of the median income for Amherst and which provides that the mix of affordable and market rate housing built in any one year is equivalent to the overall mix for the entire development, and which further provides that resale restrictions are established by the developer which ensure that the affordable units remain affordable for a period of forty years. +20

14.2001 Any development meeting the thresholds established under Section 14.10 which includes 25% or more of its units for moderate income households as defined under Article 12, and which is subsidized by federal, state or local programs, or proposed by the Amherst Housing Authority, or by a municipal housing trust under the provisions of MGL Ch. 44, Section 55C, or by a non-profit or limited dividend partnership, or any development which includes 25% or more of its units as non-subsidized housing units priced to be affordable to households whose income is greater than 80% or equal to or less than 120% of the median income for Amherst and which provides that the mix of affordable

	and market rate housing built in any one year is equivalent to the overall mix for the entire development, and which further provides that resale restrictions are established by the developer which ensure that the affordable units remain affordable for a period of forty years.	+15
14.2002	Any development meeting the thresholds established under Section 14.10 which includes 12% - 24% of its units for low and/or moderate income households and meets the other criteria listed in Sections 14.2000 or 14.2001, above.	+10
14.2003	Any development meeting the thresholds established under Section 14.10 which, exclusive of affordability, provides one unit, or 10% or more of its units, whichever is greater, as dedicated for the exclusive use of housing diverse population groups for a period not less than 30 years. Such groups may include, but are not limited to, the elderly, persons with disabilities, the homeless, and others eligible for public housing assistance under state and federal law. Developments that include attached units or apartments to meet these needs may be counted.	+3 to +10
14.2004	Any development meeting the thresholds established under Section 14.10 but not bound by the requirements of Section 15.10 which provides one or more affordable housing units meeting the criteria listed in Sections 14.2000 or 14.2001:	
14.20040	Includes one (1) affordable unit	+5
	For each additional affordable unit beyond one (1)	+2
	[not to exceed a total of 15 pts.]	
14.20041	Includes no affordable units.	- 5 to -10
14.2005	Any development meeting the thresholds established under Section 14.100 which provides units fully accessible under the provisions of the ADA and AAB, where affordable units meeting the criteria listed in Sections 14.2000 or 14.2001 are also being provided:	
14.20050	Includes one (1) accessible unit	+3
	For each additional accessible unit beyond one (1)	+1
	[not to exceed a total of 10 pts.]	

14.20051 Includes no accessible units. - 3 to -7

#### 14.201 RESIDENTIAL DEVELOPMENT METHODS

It is the policy of the Town of Amherst to encourage the production of housing that is clustered in design and layout, so as to provide the greatest density of needed housing while requiring the least extent of roadways, utilities, and services, and consuming the least amount of critical resource lands in remaining open areas.

14.2010 Any development constructed under the cluster provisions of Section 4.3, the PURD provisions of Section 4.4, or the OSCD provisions of Section 4.5 of the Zoning Bylaw. For any development which includes both clustered lots and standard lots, the increase shall be pro-rated based on the percentage of cluster lots to total lots in the development.  
+1 to +5

14.2011 Any conventional residential subdivision development consisting of 4 or more lots, including standard frontage lots or flag lots created on both existing and proposed new ways.  
-10

#### 14.21 CENTERS & MIXED USE DEVELOPMENT

It is the policy of the Town of Amherst to preferentially direct appropriate residential and mixed use development to existing built areas and centers with existing infrastructure, services, and transportation, and to actively discourage such development in Amherst's remaining open, outlying areas.

14.210 Any residential use under Sections 3.322-3.325 (inclusive) and 3.329, or residential development method or conversion within the B-G, B-VC, B-L, B-N, R-G or R-VC districts.  
+15

14.211 Any permitted residential use under Sections 3.322-3.325 (inclusive) and 3.329, or development or conversion not within the B-G, B-L, B-VC, B-N, R-G or R-VC districts but located within 1,000 feet of said districts and also within 500 feet of a federal or state highway or local street designated as arterial (principal, urban major or urban minor) by the Massachusetts Executive Office of Transportation or its successor.  
+5

14.212 Any use under Section 3.325 within the COM District.  
+3 to +7

14.213 Any residential use or development located within the R-N, R-O or R-LD zoning district(s) and meeting the threshold established under Section 14.10, excepting uses or developments with 25 percent or more of their total housing units affordable under the provisions of Sections 14.2000 or 14.2001 of this Bylaw. -5 to -15

14.22 CRITICAL NATURAL RESOURCE PROTECTION

It is the policy of the Town of Amherst to preserve and protect critical natural resources and the lands supporting or containing them, and to prevent or mitigate development on said lands.

14.220 AQUIFER & WATERSHED - The preservation of critical existing or potential areas of public water supply or recharge.

14.2200 Development in the Aquifer Recharge Protection (ARP) or Watershed Protection (WP) overlay districts:

No public sewer -15  
On public sewer -7

14.2201 Any development in the ARP or WP districts which provides no permanent protection or retention of open space. -7

14.221 WETLANDS & WILDLIFE HABITAT

The preservation of unique or critical natural resources, including wetlands as defined under state and local law, and wildlife habitats of state significance under 310 CMR 10.02, designated pursuant to 321 CMR 10.30 through 10.40, inclusive, including habitats identified under the Natural Heritage Endangered Species Program (321 CMR 10 and 310 CMR 10, as amended).

14.2210 Permanent protection and retention of the lands described under this section, above and beyond that mandated under state and local environmental regulations, in the following amounts:

500-5,000 sq. ft. +1 to +10  
For every additional 5,000 sq. ft. +2  
[not to exceed a total of +15 pts.]

14.2211 Permanent protection and retention of such lands where they provide: 1) habitat suitable for fish or game species, 2) public access, and 3) sufficient distance from any hard-surfaced roads and any dwelling or building in regular use on adjacent properties, such that a minimum of 90 percent (90%) of the land area to be

protected meets the requirements of MGL Ch. 131, Sec. 58, as amended, and is protected in the following amounts:

Minimum 5 acres	+3 to +10
For every additional 1 acres	+2
[not to exceed a total of +20 pts.]	

14.2212 Any development involving the disturbance on the subject property of wetlands as defined under state and local law, or within any critical habitats of state significance.

500-5,000 sq. ft.	-5 to -10
Each additional 5,000 sq. ft.	-5
[not to exceed a total of -20 pts]	

14.222 FLOODPRONE AREAS

The reasonable regulation of flood-prone areas in Amherst is a priority for reasons of public safety, preservation of property, and the protection of environmental values.

14.2220 Any development or accessory use in the FPC District other than in association with farming or another extensive land resource use permitted by right. -7

14.2221 Any development or accessory use on property that includes FPC District where said development occurs outside of or mitigates impacts on the flood-prone areas. +3 to +5

14.2222 Any development or accessory use providing permanent protection for flood-prone areas, in the following amounts:

2,000-5,000 sq. ft.	+3 to +5
For every additional 5,000 sq. ft.	+2
[not to exceed a total of 15 pts.]	

14.223 CRITICAL FARMLAND

It is a priority of the community of Amherst to preserve and promote farming and related resource-based activities as a part of Amherst's economic and cultural heritage, as a viable lifeway for Amherst residents, as a responsible use of land, as an important local source of food, and as an activity which sustains and fosters a connection to the land among citizens.

Protection and retention of farmland and the promotion of farming activity.

- 14.2230 Development on agricultural land, defined as land classified prime, unique or of state and local importance by the USDA SCS, or land characterized by active agricultural use as defined in MGL Ch. 128, Section 1A. -10
  
- 14.2231 In the Farmland Conservation (FC) District, retention and preservation under permanent agricultural restriction of agricultural land in the following amounts:
  - 2 to <5 acres +2 per acre
  - 5 or more acres +5 per acre
  - [not to exceed a total of 20 pts.]
  
- 14.2232 Any development in the R-LD/FC districts providing no permanent protection or retention of farmland. -7 to -10
  
- 14.2233 Provision of a minimum 150 foot buffer zone, including a fence and screening vegetation, between new residential buildings and the property boundary of a working farm. +3 to +5
  
- 14.2234 Provision or creation of community gardens as part of any development outside the FC District.
  - In a 'center' district (Section 14.10) +5 to +10
  - In an 'outlying' district (Section 14.10) +3 to +10
  - For use by the general public +3 to +7
  
- 14.2235 Frontage or flag lot development under M.G.L. Ch. 41, Section 81P, with frontage located outside the FC District and a portion of lot area abutting or within the FC District.
  - 14.22350 More than 5,000 sq. ft. of individual or average lot area in the FC District. -7
  - 14.22351 2,500-5,000 sq. ft. of individual or average lot area in the FC District. -5
  - 14.22352 Less than 2,500 sq. ft. of individual or average lot area in the FC District. -3

14.23 CRITICAL HISTORIC RESOURCES

It is the policy of the Town of Amherst to preserve, restore, rehabilitate, and, as appropriate, adaptively reuse its critical historic and archeological resources.

14.230 The permanent preservation of unique or critical historic or archeological resources on properties which: 1) are listed on the National or Massachusetts Registers of Historic Places, or, 2) are located in any local historic district established under MGL Ch. 40C, as amended, or, 3) are listed on the Amherst Historic Resource Inventory, or, 4) have been determined by the Amherst Historical Commission to be a significant structure under the provisions of Article 13 or as a separate review conducted at the request of the Permit Granting Board or Special Permit Granting Authority under this section:

14.2300 Permanent preservation of the resource through the conveyance of a deed restriction or easement in perpetuity, or fee simple interest to the Commonwealth, the Town, or a qualified non-profit organization, the principal purpose of which is the preservation of historic or archeological resources. +7 to +15

14.2301 Treatment of the resource in accordance with the U.S. Secretary of the Interior's Standards for the Treatment of Historic Properties, under the following categories, as defined therein:

Preservation	+7 to +15
Rehabilitation	+3 to +10
Restoration	+3 to +7
Reconstruction	+3 to +5

14.2302 Demolition of a structure:

Without benefit of a demolition permit	-5 to -15
Prior to the end a demolition delay period imposed by the Historical Commission	-3 to -15
After a demolition delay period imposed by the Commission has ended.	-3 to -10

Note: No points shall be deducted where: 1) the Historical Commission has granted permission for issuance of a demolition permit under any provision of Article 13, or 2) the Building Commissioner has issued an

emergency demolition permit under Section 13.6.

- 14.2303 Removal or willful or negligent alteration or destruction of significant distinguishing characteristics of: 1) any critical historic resources under the provisions of Section 13.7, or 2) any critical archeological resource listed by the Massachusetts Historical Commission. -3 to -15

#### 14.24 SUSTAINABLE SITE & BUILDING DESIGN

It is the policy of the Town of Amherst to mandate, promote, and assure development which adheres to principles of energy efficiency and sustainability in terms of location, siting, materials, energy use, and design.

- 14.240 Site and building design which allows for increased density of residential units in the 'center' districts (see Section 14.10) and which, in the judgment of the Permit Granting Board or Special Permit Granting Authority, responds to, preserves, replicates, reinforces and/or enhances and improves the historical, architectural, and spatial character of a village center or a residential neighborhood. +5 to +10
- 14.241 Site and building design which respond to, incorporate and protect natural features such as vegetation, topography, water courses, significant street or shade trees and scenic views. +5 to +7
- 14.242 Site design and building construction which, in the judgment of the Permit Granting Board or Special Permit Granting Authority, maximize sustainable design and energy conservation and efficiency, including but not limited to super-insulation, appropriate reuse of existing or salvaged materials, use of sustainably obtained or recycled materials, green roofs and permeable paving, and alternative Energy sources, including, but not limited to, passive solar design, on-site energy generation (heat exchange/heat pump technology, geo-thermal, photo-voltaic solar, solar heating or cooling, wind generation, small-scale biomass, and similar sources. +3 to +10
- 14.243 Site design and building construction which meet the requirement for LEED or equivalent certifications for energy or the use of sustainable forest products or other building materials. +7 to +15
- 14.244 Site design and building construction whose design provides unobstructed access to solar and wind for adjacent properties. +5

14.245 Site and building designs which employ universal accessibility design for new construction, renovations, and redevelopment, including redesign and renovation of existing residences and structures to assure the ability of mobility-impaired residents to visit neighbors. +3 to +10

14.246 Site and building design which fail to address any three of the above. -5 to -15

In no event shall more than a total of 50 points be assigned under this section.

14.25 TRANSPORTATION

It is the policy of the Town of Amherst to develop a balanced, accessible, safe, and environmentally responsible transportation and circulation system that serves users of public transit, pedestrians, bicyclists, and drivers, and that is connected within and among different transportation modes both in Amherst and the region.

14.250 Above and beyond the requirements of subdivision regulations, where applicable, access to or the provision of pedestrian, bicycle, or public transit facilities for residential uses and developments meeting the thresholds established under Section 14.10:

14.2500 Access to existing sidewalks, or to existing multi-use paths meeting ADA/AAB Regulations for handicapped accessibility, including walking, bicycle or bridle paths or trails located within the site, connecting the site to adjacent public ways, or creating links to existing off-site paths. +5 to +10

14.2501 Provision of new sidewalks or other multi-use paths meeting ADA/AAB Regulations for handicapped accessibility, including new walking, bicycle or bridle paths or trails located within the site, connecting the site to adjacent public ways, or creating new links to existing off-site paths.

14.25010 Where such paths or trails are fully accessible to members of the general public. +7 to +10

14.25011 Where such paths or trails are provided but are accessible only to residents of the development and not to members of the general public. +1 to +3

- 14.25012 Failure to provide such paths and trails. -3 to -7
- 14.2502 Access to or provision of a public transit stop and connections thereto, including but not limited to stops for buses and passenger rail service.
  - 14.25020 Access to one or more existing public transit stops connected to the site via existing sidewalks or pedestrian paths, where a stop is located:
    - Within 500 feet of the site +10
    - Within 1,000 feet of the site +5
  - 14.25021 No public transit stop located within 1,000 feet of the development. -5 to -10
  - 14.25022 Provision of a new public transit stop connected to the site via existing or new accessible pedestrian paths, where the new stop is located:
    - Within 500 feet of the site +15
    - Within 1,000 feet of the site +10
  - 14.25023 Provision of a new accessible public sidewalk connection between the site and any existing public transit stop(s) within 1,000 feet of the site. +5 to +10
  - 14.25024 Failure to provide an accessible sidewalk connection to an existing public transit stop located within 1,000 feet of the site. -7 to -10
- 14.2503 Provision of new public transportation alternatives, including but not limited to car or bicycle sharing programs, shuttle transit, or, contribution to or participation in the development of multi-modal facilities or new alternative public transit modes, including but not limited to monorail, light rail, and similar modes. +5 to +15

14.3 DEVELOPMENT MODIFICATION CALCULATIONS

14.30 Development Modification Table

Points accumulated under Section 14.2 shall be totaled and the total point score shall determine the percentage of change, if any, to the total residential unit count, mixed use building coverage, or other dimensions, as hereinafter provided in this section.

Total Points	B-G	B-N					
	B- L <sup>1</sup>	R-G	R-N	R-O			
	<u>B-VC</u>	<u>R-VC</u>	<u>B-L<sup>2</sup></u>	<u>R-LD</u>	<u>COM</u>	<u>R-F</u>	<u>FPC</u>
90 or more	40%	35%	25%	20%	15%	0%	0%
80 to 89	35	30	25	15	15	0	0
70 to 79	30	25	20	10	10	0	0
60 to 69	25	20	15	5	10	0	0
50 to 59	20	20	15	5	10	0	0
40 to 49	15	15	15	5	5	0	0
30 to 39	15	10	10	0	5	0	0
20 to 29	10	5	5	0	5	0	0
10 to 19	5	5	5	0	0	0	0
0 to 9	0	0	0	0	0	0	0
-10 to -1	-5	-5	-5	-5	0	0	0
-20 to -11	-10	-5	-5	-5	-5	0	0
-30 to -21	-15	-10	-10	-5	-5	0	0
-40 to -31	-15	-15	-10	-10	-10	0	0
-50 to -41	-20	-20	-15	-15	-15	0	0
-60 to -51	-25	-20	-15	-15	-20	0	0
-70 to -61	-30	-25	-20	-20	-25	0	0
-80 to -71	-35	-30	-25	-25	-30	0	0
-81 or less	-40	-35	-25	-30	-35	0	0

<sup>1</sup> B-L abutting B-G

<sup>2</sup> B-L not abutting B-G

14.31 Residential Uses or Development

The standard maximum density established for any residential land use or residential development method under Table 3 and Article 4 of this Bylaw shall

be modified, and increased or decreased based upon the total points accumulated under Section 14.1. Using the Development Modification Table above, the total points shall indicate, for the zoning district in which the development is located, a specific percentage increase or decrease in the maximum density (number of dwelling units), where the standard maximum density shall be considered equal to 100% (or 1.0) and the figure shall represent the percentage of that standard maximum density by which the total is increased or decreased.

Under this section, for cluster subdivisions and OSCDs in the R-O and R-LD districts, the maximum number of lots or units, as applicable, otherwise allowed under the development method may be increased by the number of affordable units proposed, not to exceed 120 percent of the maximum otherwise allowable. This limitation shall not apply in other districts where these development methods are available.

In calculating the total number of dwelling units resulting from this modification, the provisions of Section 4.12 shall apply.

#### 14.32 Mixed Uses

The standard maximum building coverage permitted under Table 3 for any mixed use under Section 3.325 shall be modified, and increased or decreased based upon the total points accumulated under Section 14.1. Using the Development Modification Table, the total points shall indicate, for the zoning district in which the development is located, a specific percentage of increase or decrease in the maximum building coverage for the applicable zoning district, where the standard maximum building coverage, as calculated in square feet, shall be considered equal to 100% (or 1.0) and the specific percentage derived shall be the percentage of the standard maximum building coverage by which total building coverage shall be increased or decreased.

In calculating the resulting square footage of maximum building coverage resulting from this modification, any fractional portion greater than or equal to 0.5 of a single percentage (1.0%) of total resulting building coverage shall be rounded up to the nearest whole percentage, and any fractional portion less than 0.5 of a single percentage (1.0%) of total building coverage shall be rounded down to the nearest whole percentage.

- 14.33 Any residential or mixed use accruing more than 50 total points may also increase the number of floors for existing or proposed buildings by a single floor above the maximum for the applicable zoning district. In those instances, the Permit-Granting Board or Special Permit Granting Authority, as applicable, may modify the maximum height as it deems appropriate in order to accommodate the additional floor, except that the increase above the maximum allowed height shall not exceed fifteen (15) feet.

Additionally, for any residential use scoring 50 or more points, or any mixed use scoring 60 or more points in the B-G, B-L, B-VC, B-N, and COM districts, the Permit Granting Board or Special Permit Granting Authority may modify the minimum front, side, and rear setbacks and the maximum lot coverage. Under this provision, front, side, and rear setbacks need not be provided, but may be set as determined by the Permit Granting Board or Special Permit Granting Authority. If provided, side and rear setbacks shall be at least 10 feet. Maximum lot coverage may be increased by an amount not exceeding 10 percent of the requirement under Table 3.

**B. Add a new superscript o. to the title of Table 3, Dimensional Regulations, and a corresponding new footnote, as follows:**

- o. The dimensional regulations and resulting densities of Table 3 may be modified under the provisions of Article 14, Density & Dimensional Modification.

**C. Amend the following existing subsections of Article 4, Development Methods, and add a new Section 4.4221, as follows:**

[Affordable clusters]

4.330 The Planning Board ~~may authorize a greater~~ **shall modify the** number of building lots ~~than would be allowed by the density requirements of Section 4.3231 or Section 4.327~~ **in accordance with the provisions of Article 14.** ~~only if a minimum of 10% of the total dwelling units in the development are affordable units as herein defined. In no event shall the Board authorize a greater number of building lots than 120% of the maximum number of lots otherwise allowed under the applicable development method. For the purpose of this calculation, 10% of the total parcel size shall be subtracted for road allowance prior to calculating the maximum density normally allowed. See Section 4.12.~~

[OSCD affordable units]

4.550.0 In any OSCD that includes affordable dwelling units in accordance with Sections 4.333-4.334, the maximum density established under Section 4.520 may be **modified and increased in accordance with the provisions of Article 14.** ~~by the number of affordable units proposed. Additional units allowed under this provision shall not exceed 20% of the maximum otherwise permitted under Section 4.520.~~

[OSCD accessible units]

- 4.551.0 In any OSCD that includes dwelling units fully handicapped accessible under the provisions of Massachusetts Architectural Access Board regulations (521 CMR), as amended, the maximum density established under Section 4.520 may be ***modified*** ~~increased~~ ***in accordance with the provisions of Article 14.*** ~~by the number of accessible units proposed, except that no accessible units may be counted as part of such a density bonus unless separate affordable dwelling units are also being provided. Additional accessible units allowed under this provision shall not exceed 10% of the maximum otherwise permitted under Section 4.520.~~

[PURD affordable units]

- 4.4221 ***In any PURD that includes affordable dwelling units in accordance with Sections 4.333-4.334, or dwelling units fully handicapped accessible under the provisions of Massachusetts Architectural Access Board regulations (521 CMR), as amended, the maximum density that could otherwise be established under this section may be modified in accordance with the provisions of Article 14.***

- D. Amend Sections 6.17 and 6.18, by adding the new sentence “See Section 14.3.” to the end of each section.
- E. Amend Article 12, Definitions, by adding the following new definitions in alphabetical order and renumbering the remaining sections accordingly:
12. \_\_ ***Historic or Archeological Resources, Critical: Sites, landforms, structures, objects or features which are: (1) located on properties or themselves listed on the National Register of Historic Places, or (2) included in the Amherst Historic Resource Inventory, or have been, (3) found by the Amherst Historical Commission to be significant under the provisions of Section 13.4 of this Bylaw, whether as part of a demolition delay proceeding or otherwise.***
12. \_\_ Housing, Affordable: Affordable housing units are units which may be rented or purchased by those who meet the guidelines for maximum annual income for low-income or moderate-income family or household. The income limit for low-income shall be 80% of the median income for Amherst and the income limit for moderate-income shall be 120% of median income for Amherst.

Median income for Amherst shall be as calculated by the U.S. Department of Housing & Urban Development, or any successor agency and shall be adjusted for family size.

*Permanently preserved affordable housing shall be defined to include any dwelling units providing affordable housing for low or moderate income households as defined above, where said units are: (1) eligible to be counted under the Subsidized Housing Inventory (SHI) maintained by the Mass. Dept. of Housing and Community Development or its successor under the provisions of MGL Ch. 40B, or (2) proposed by the Amherst Housing Authority or a non-profit or limited dividend partnership or a municipal housing trust under the provisions of MGL Ch. 44, Section 55C, and subsidized by federal, state or local programs, or (3) non-subsidized housing units priced to be affordable to low or moderate income households. Under (2) and (3) above a deed restriction enforceable by the Town of Amherst shall be recorded providing that the affordable units will remain affordable at the level specified for a period of forty years.*

12.      *Preservation, Permanent: For the purposes of this Bylaw, permanent preservation of any land, property, or resources hereunder shall entail either (1) conveyance to the Commonwealth of Massachusetts for the specified public purpose(s), or (2) conveyance to the Town of Amherst and acceptance of it for the specified public purpose(s), or (3) conveyance to a non-profit organization or public trust, the principal purpose of which is consonant with the public purpose(s) being served under the Bylaw, or (4) conveyance to a corporation or trust owned or to be owned by the owners of the land, property, or resources in question. If such a corporation or trust is utilized, as indicated herein, ownership thereof shall pass with conveyances of the lots or residential units. Under the third and fourth ownership alternatives listed above, a deed restriction enforceable by the Town of Amherst shall be recorded providing that such land, property, or resource shall, in perpetuity, be owned, maintained, and utilized in a state and manner consistent with the public purposes for which the preservation in question has been established. For the permanent preservation of housing, see the definition for Housing, Affordable.*

12.      *Scenic View: A scenic view is a wide angle or panoramic field of sight constituting or affording pleasing views of relatively undisturbed natural features to which the public has access and which may include views of unique natural and/or man-made structures and activities. A scenic view may be visible to the public from a stationary viewpoint or while travelling along an existing or proposed roadway, waterway, or path. A scenic view may afford visual access to a distinct but distant object, such as a mountain, or a nearby object.*