

SECTION 6C. THE OAKLEY NEIGHBORHOOD SMART GROWTH OVERLAY DISTRICT

Note: §6C was adopted under Article 9 at the 2007 Special Town Meeting.

6C.1 Purposes

The purposes of the The Oakley Neighborhood Smart Growth Overlay District (OL) are:

1. To encourage smart growth in the development of the former Our Lady of Mercy real properties located within the distinctive, attractive and livable residential neighborhood intersected by Belmont Street and Oakley Road (Oakley Neighborhood).
2. To promote low impact, green, and sustainable development that is pedestrian friendly within the Oakley Neighborhood.
3. To ensure high quality site planning, architecture and landscape design that is consistent with the distinct visual character and identity of the Oakley Neighborhood and provides the Oakley Neighborhood with safety, convenience and amenities appropriate to its residential nature.
4. To establish development standards that ensures context-sensitive design and creative site planning in the reuse of existing buildings and construction of new buildings.
5. To provide for diversified housing stock at a variety of costs in close proximity to the Belmont Street bus line, including affordable housing, that meets the needs of the Town's population and promotes diversity.
6. To generate positive tax revenue, and to benefit from the financial incentives provided by Massachusetts General Law, Chapter 40R, while providing the opportunity for housing choice among households of varying incomes, ages and sizes.

6C.2 Scope and Authority

The OL is established pursuant to the authority of Massachusetts General Law, Chapter 40R and 760 CMR 59.00, and shall be deemed to overlay the parcels as shown on the Zoning Map of the Town of Belmont, as amended. At the option of the owner, development of land within the OL may be undertaken by means of a Site Plan Approval pursuant to the zoning controls set forth in this Section 6C or by complying with all applicable zoning controls set forth in the Zoning By-Law of the Town of Belmont (Underlying Zoning). Development Projects proceeding under this Section 6C shall be governed solely by the provisions of this Section 6C and shall be deemed exempt from the standards and/or procedures of the Underlying Zoning.

6C.3 Establishment and Delineation of The Oakley Neighborhood Smart Growth Overlay District and Sub-Districts

Within the OL, there are Sub-Districts identified as OL Church Buildings Sub-District, OL Rectory Sub-District, OL Senior Center Sub-District and OL Triangle Sub-District. The boundaries of the OL and the Sub-Districts are delineated on a sheet labeled "The Oakley Neighborhood Smart Growth Overlay District and Sub-Districts" which is a part of the Official Zoning Map of the Town of Belmont on file in the office of the Town Clerk.

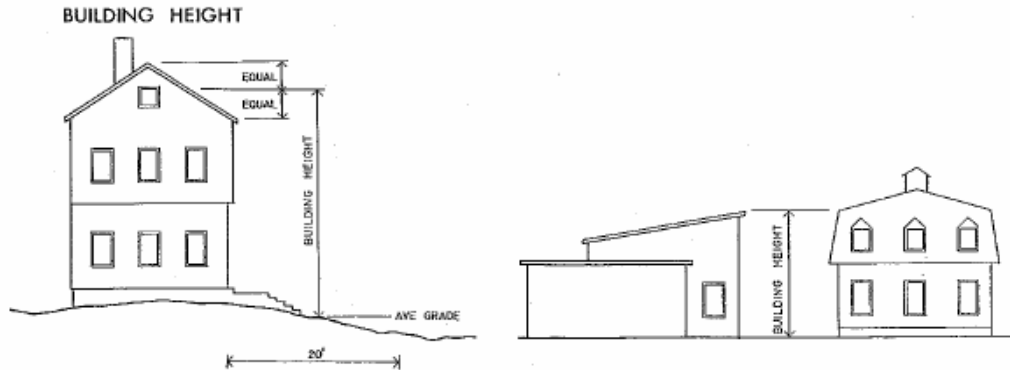
6C.4 Definitions

As used in this Section 6C, the following terms shall have the meanings set forth below:

1. **AASHTO** – The American Association of State Highway and Transportation Officials.
2. **Administering Agency** - An organization designated by the Belmont Board of Selectmen, which may be the Belmont Housing Authority or other qualified housing entity, with the power to monitor and to enforce compliance with the provisions of this By-Law related to Affordable Units, including but not limited to computation of rental and sales prices; income eligibility of households applying for Affordable Units; administration of an approved housing marketing and resident selection plan; and recording and enforcement of an Affordable Housing Restriction for each Affordable Unit in the OL. In a case where the Administering Agency cannot adequately carry out its administrative duties, upon certification of this fact by the Belmont Board of Selectmen or by DHCD such duties shall devolve to and thereafter be administered by a qualified housing entity designated by the Belmont Board of Selectmen or, in the absence of such timely designation, by an entity designated by the DHCD.
3. **Affordable Unit** – an Affordable Rental Unit or an Affordable Homeownership Unit that is affordable to and occupied by an Eligible Household.
4. **Affordable Housing Restriction** – A deed restriction of an Affordable Homeownership Unit meeting the requirements in Massachusetts General Law, Chapter 184, Section 31 and the requirements of this By-Law.
5. **Affordable Rental Unit** – A dwelling unit required to be rented to an Eligible Household in accordance with the requirements of this By-Law.
6. **Affordable Homeownership Unit** – A dwelling unit required to be sold to an Eligible Household in accordance with the requirements of this By-Law.
7. **Alley** – A roadway or shared driveway on which no primary buildings have front doors and the primary purpose of which is to provide immediate access to garages and private parking spaces serving such buildings.
8. **Applicant** – A landowner or other petitioner that files a site plan for a Development Project subject to the provisions of the OL.
9. **Approving Authority** – The Planning Board of the Town of Belmont acting as the authority designated to review projects and issue approvals under this By-Law.
10. **As-of-Right Development** - A Development Project allowable under this By-Law without recourse to a Special Permit, Variance, zoning amendment, or other form of zoning relief. A Development Project that is subject to the Site Plan Review requirement of this By-Law shall be considered an As-of-Right Development.
11. **Basement** – A portion of a building partially underground, but having less than sixty percent (60%) of its clear height below grade (see Cellar).
12. **Cellar** - A portion of a building partially underground, having sixty percent (60%) or more of its clear height below grade (see Basement).

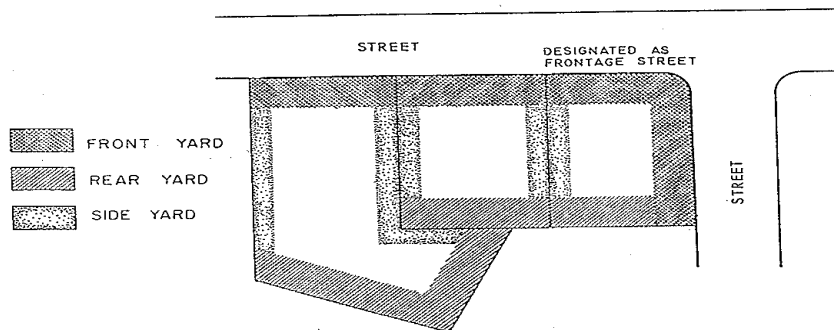
13. **Convent** – The residential building located within the OL Church Buildings Sub-District as of the date of adoption of this By-Law.
14. **DHCD** – The Massachusetts Department of Housing and Community Development (DHCD) or any successor agency.
15. **Design Standards** – The document entitled Belmont The Oakley Neighborhood Smart Growth Overlay District Design Standards, as amended, approved by DHCD on April 18, 2008, pursuant to Massachusetts General Law, Chapter 40R, Section 10. The Design Standards are applicable to all Development Projects within the OL that are subject to Site Plan Review by the Approving Authority.
16. **Development Lot** – One or more lots which are designated as a Development Lot on a site plan for a Development Project proposed within the OL and for which Site Plan Approval is required under the provisions of this By-Law. The lots comprising a Development Lot need not be in the same ownership. Where the Development Lot consists of more than a single lot, the lots, in combination, shall be treated as the Development Lot, may be contiguous or non-contiguous, and at the discretion of the Approving Authority, may be considered as one lot for the purpose of calculating parking requirements.
17. **Development Project** – A residential development undertaken under this Section 6C. The limits of a Development Project shall be identified on the Site Plan which is submitted to the Approving Authority for Site Plan Review.
18. **Dwelling** – A building containing one or more dwelling units separated by side yards from any other structure or structures except accessory buildings. The following types of Dwellings are specifically defined:
 - a. **Multi-Family Dwelling** – A single residential building containing more than three Dwelling Units designed for occupancy by the same number of families as the number of Dwelling Units.
 - b. **Single-Family Detached Dwelling** — A detached residential building containing a single Dwelling Unit, other than a mobile home, designed for occupancy by one family only and located on a distinct lot.
 - c. **Three-Family Dwelling** – A single residential building containing three Dwelling Units.
 - d. **Two-Family Dwelling** – A single residential building containing two Dwelling Units.
19. **Dwelling Unit** – A building or portion of a building intended as living quarters for a single family, having a single set of kitchen facilities (a stove plus either or both refrigerator and sink) not shared with any other unit.
20. **Eligible Household** – An individual or household whose annual income is below eighty percent (80%) of the area-wide Median Household Income as determined by the United States Department of Housing and Urban Development (HUD), adjusted for household size, with income computed using HUD's rules for attribution of income to assets.
21. **Family** – One or more persons, including domestic employees, occupying a dwelling unit and living as a single nonprofit housekeeping unit; provided that if five or more persons of the group occupying said dwelling are not kindred to each other, as defined by civil law, they shall not be deemed to constitute a family.

22. **Height, Building** – The vertical distance from the grade to:
- the highest point of the roof or parapet for flat or shed roofs;
 - the midpoint between the lowest and highest points of the roof for gable, hip and gambrel roofs (upper roof pitch 4" per foot or greater); or
 - the point of change in roof slope for mansard roofs (upper roof pitch under 4" per foot).



23. **Historically Significant Buildings** – The Our Lady of Mercy church building located on Belmont Street built in 1927 in the Lombardy Romanesque style by the religious architectural firm of Maginnis and Walsh (“Church”) and the Our Lady of Mercy rectory located on Lawndale Street, built in the Craftsman style in 1900 (“Rectory”).
24. **Home Occupation** – The use of a room or rooms in a Dwelling Unit as an office or studio by a resident provided said use is permitted pursuant to Section 3.4.2 of the Underlying Zoning.
25. **Household Income, Median** – The median income, adjusted for household size, as reported by the most recent information from, or calculated from regulations promulgated by, the United States Department of Housing and Urban Development (HUD).
26. **Lot** – The whole area of a single parcel of land under one ownership. Whenever such a parcel is divided on a plan which has been placed on file at the Middlesex South District Registry of Deeds at Cambridge, the term lot as used in this By-Law shall mean a lot as shown on such plan.
27. **Lot Coverage** – Percentage of total lot area covered by structures or roofed.
28. **Lot Frontage** – The boundary of a lot on land coinciding with a street line if there are both rights of access and potential vehicular access across that boundary to a potential building site. Measured continuously along one street line between side lot lines. In the case of corner lots, measured on the street designated by the Applicant or, failing that, by the Building Inspector as the frontage street, between the side lot line and the midpoint of the corner radius.

29. **Oakley Neighborhood Association** – An unincorporated neighborhood association located in Precinct 6 comprised of Belmont residents owning or renting homes on streets near the Our Lady of Mercy real properties which organized in 2005 for the purpose of influencing and promoting appropriate future development of the Our Lady of Mercy real properties within the Oakley Neighborhood.
30. **OL** – An overlay zoning district adopted pursuant to Massachusetts General Law, Chapter 40R, in accordance with the procedures for zoning adoption and amendment as set forth in Massachusetts General Law, Chapter 40A and approved by the Department of Housing and Community Development pursuant to Massachusetts General Law, Chapter 40R and 760 CMR 59.00.
31. **Open Space** – An open area on a lot, unbuilt on, containing landscape materials, pedestrian walks, patios, recreational facilities, but excluding driveways and parking spaces.
32. **Renovation** – Physical improvement that adds to the value of the real property. Painting, ordinary repairs, and other normal maintenance do not constitute a renovation.
33. **Setback** – An area open to the sky, located between a street or other property line and any structure or element thereof other than a fence, wall, or other customary yard accessory. Setback is measured perpendicular to the street, property line or Sub-District boundary.



34. **Setback, Front** - A setback taken from a street line. Typically, corner and through lots must provide two front setbacks.
35. **Setback, Rear** - A setback taken from a rear property line, that is, typically a line or set of lines approximately parallel to the street frontage, and separating lots whose frontage is established on different streets. Setbacks on irregularly shaped lots where "side" versus "rear" is indeterminate shall be construed as rear setbacks.
36. **Setback, Side** - A setback taken from a side property line, typically a line or set of lines which intersect a street line, separating lots whose frontage is established on the same street. Corner lots commonly have one side setback and one rear setback.
37. **Shared Parking Facilities** – Off-street parking facilities designed and intended to serve more than a single Dwelling as shown on a Site Plan.

38. **Site Plan** – A plan depicting a proposed Development Project for all or a portion of the OL and which is submitted to the Approving Authority for its review and approval in accordance with the provisions of Section 6C.12 of this By-Law.
39. **Site Plan Approval** – The Approving Authority’s authorization for a proposed Development Project based on a finding of compliance with this By-Law and Design Standards after the conduct of a Site Plan Review.
40. **Site Plan Review** – The review procedure established by this By-Law and administered by the Planning Board of the Town of Belmont as the Approving Authority.
41. **Sub-District** – A specific and defined area of land within the OL that is subject to specific requirements for allowable uses or dimensional requirements that may differ from the requirements for allowable uses or dimensional requirements in other specific and defined areas within the OL.
42. **Underlying Zoning** – The zoning requirements adopted pursuant to Massachusetts General Law, Chapter 40A that are otherwise applicable to the geographic area in which the OL is located, as said requirements may be amended from time to time.
43. **Unduly Restrict** – A provision of the OL or a Design Standard that adds unreasonable costs or unreasonably impairs the economic feasibility of a proposed Development Project in the OL.
44. **Unrestricted Unit** – A Dwelling Unit that is not restricted as to rent, price or eligibility of occupants.
45. **Use, Accessory** – A use subordinate to the Principal Use on the same lot or in the same structure and serving a purpose customarily incidental to the Principal Use, and which does not, in effect, constitute conversion of the Principal Use of the lot, site or structure to a use not otherwise permitted in the OL.
46. **Use, Principal** – The main or primary purpose for which a structure, building, or lot is designed, arranged, licensed, or intended, or for which it may be used, occupied, or maintained under this Section 6C.
47. **Use, Recreation / Community** – Any horticultural or active or passive recreational use of land such as for walking and bicycle paths, parks, gardens or other green spaces or use of buildings for community purposes such as meeting areas.
48. **Zoning By-Law** – The Zoning By-Law of the Town of Belmont, Massachusetts, adopted in accordance with and pursuant the provisions of Massachusetts General Law, Chapter 40A.
49. **Zoning Map** – The Zoning Map of the Town of Belmont, Massachusetts, adopted in accordance with and pursuant the provisions of Massachusetts General Law, Chapter 40A.

6C.5 Permitted Uses

The following uses shall be permitted in the following Sub-Districts As-of-Right upon Site Plan Approval, and at residential densities specified in Table 6C.8.1 pursuant to the provisions of this By-Law:

	Single-Family Detached Dwelling Unit	Two-Family Dwelling	Three-Family Dwelling	Multi-Family Dwelling Unit	Recreation / Community Use
Church Buildings Sub-District	Yes	Yes	Yes	No, except as authorized at §6C.7.1	Yes
Rectory Sub-District	Yes	Yes	Yes	No	Yes
Senior Center Sub-District	Yes	No	No	No	Yes
Triangle Sub-District	Yes	Yes	No	No	Yes

6C.6 Prohibited Uses or Activities in the OL

1. Non-Residential Use, except for Home Occupations permitted pursuant to Section 3.4.2 of the Underlying Zoning, and Recreation / Community Use.
2. Any use prohibited by Section 5.4 of the Underlying Zoning in effect as of October 22, 2007.
3. Any use not listed in Section 6C.5 is expressly prohibited; provided, however, that uses permitted in the Underlying Zoning district are permitted as long as they are not exercised in connection with a Development Project.

6C.7 Building Renovation and Additional Allowable Dwelling Units

1. In order to promote the re-use and rehabilitation of buildings in the OL in existence as of the date of this By-Law, an Applicant shall be authorized to construct a number of Dwelling Units in addition to the maximum As-of-Right density provided said development occurs through renovation of existing buildings in the OL as follows:
 - a. If an Applicant proposes and obtains Site Plan Approval to renovate the Our Lady of Mercy church building to include no more than six (6) Multi-Family dwelling units, the Applicant shall also be entitled to construct an additional Dwelling Unit within the OL Church Buildings Sub-District such that a total of ten (10) Dwelling Units may be permitted in the OL Church Buildings Sub-District, inclusive of the renovated church, provided that: the additional Dwelling Unit is shown on the same Site Plan as the

church building renovation; and the proposed additional Dwelling Unit complies with all requirements of this By-Law, including setbacks and dimensional requirements and Design Standards.

2. Buildings that are moved to another location in the OL shall comply, upon relocation, with all requirements of this By-Law, including setbacks and dimensional requirements.

6C.8 Dimensional and Other Requirements

1. New buildings within the OL shall be subject to the following bulk and dimensional requirements based on the use of the Development Lot:

	Single-Family Dwelling	Two-Family Dwelling	Three-Family Dwelling	Multi-Family Dwelling	Recreation / Community Use
Frontage (linear feet)	50	50	90	N/A	N/A
Setback, Front (linear feet)	25	25	25	N/A	N/A
Setbacks, Side (linear feet)	10	10	15	N/A	N/A
Setback, Rear (linear feet)	30	30	30	N/A	N/A
Height (feet)	36	36	36	N/A	N/A
Maximum Lot Coverage (%)	25	30	40	N/A	N/A
Minimum Open Space (%)	50	50	40	N/A	50

2. Setbacks from other buildings. All buildings must maintain a minimum twenty (20) foot setback from other buildings both within and adjacent to the District.
3. In the Church Buildings Sub-District, the rear setback of dwellings with frontage on Belmont Street or Oakley Road shall be defined as the setback opposite the Belmont Street side of the dwelling.
4. Building Renovation. Renovation of existing buildings may maintain existing building footprints, and may only expand such footprints insofar as such expansion is in compliance with the required dimensional requirements for new buildings. Renovation building projects need not meet setback requirements applicable to new construction, but renovated buildings may not cross lot lines or Sub-District boundaries.
5. Number of buildings on a lot. Not more than one principal building may be erected on a lot provided, however, that up to three total buildings including renovated buildings may be allowed in the Church Buildings Sub-District, and that accessory buildings such as sheds may also be permitted.

6. In the Triangle Sub-District, side yard setback may be reduced to zero for a dwelling sharing a party wall with another dwelling on the abutting lot, provided the opposite side yard setback shall be at least sixteen (16) feet from the opposite lot side line.
7. Fractional Units. When the application of the allowable densities specified in Table 6C.8.8 results in a number that includes a fraction, the fraction shall be rounded down to the next whole number.
8. Maximum Residential Development. Unless a greater number of dwelling units is permitted pursuant to Section 6C.7 governing building renovation and additional allowable dwelling units, the aggregate number of dwelling units that may be constructed in the OL is eighteen (18) and is calculated for each of the Sub-Districts as follows:

Sub-District	Highest Density Allowable Residential Use unless otherwise approved pursuant to §6C 7.1	Allowable Units Per Acre unless otherwise approved pursuant to §6C 7.1	Allowable Number of Units unless otherwise approved pursuant to §6C 7.1
Church Buildings Sub-District	Two-Family or Three-Family	15	9
Rectory Sub-District	Two-Family or Three-Family	15	3
Senior Center Sub-District	Single-Family	8	2
Triangle Sub-District	Two-Family	12	4

6C.9 Off-Street Parking

Off-street parking shall be provided at a ratio of not less than one (1) space per Dwelling Unit to a maximum of two (2) spaces per Dwelling Unit to be located within 300 feet of the front entrance to the Dwelling. For proposed increases beyond one (1) space per unit, the Approving Authority shall determine that the spaces can be created within the lot while maintaining compliance with dimensional and maximum lot coverage requirements, or that the parking spaces can be provided off-site, subject to the Applicant demonstrating ownership of or a recorded use easement subject to all off-site spaces.

6C.10 Design Standards

To ensure that new development shall be of high quality, and shall meet the standards envisioned by the Town of Belmont in adopting this By-Law, the Planning Board shall adopt the Design Standards governing the issuance of Site Plan Approvals for Development Projects within the OL and shall file a copy with the Town Clerk. In addition to the standards set forth in this By-Law, the physical character of Development Projects within the OL shall comply with such Design Standards. In the event of any conflict between this By-Law and the Design Standards, this By-Law shall govern and prevail.

6C.11 Affordable Housing

1. Number of Affordable Units. Twenty percent (20%) of all Dwelling Units constructed in a Development Project shall be Affordable Units. Twenty-five percent (25%) of all rental dwelling units in a Development Project shall be Affordable Units. Provided however, for Development Projects in which all of the Dwelling Units are limited to occupancy by elderly persons and/or by persons with disabilities, twenty-five percent (25%) of the Dwelling Units shall be Affordable Units, whether the Dwelling Units are rental or ownership units.
2. Fractional Units. When the application of the percentages specified above results in a number that includes a fraction, the fraction shall be rounded up to the next whole number if the fraction is 0.5 or more. If the result includes a fraction below 0.5, the fraction shall be rounded down to the next whole number.
3. Affordable Units shall comply with the following requirements:
 - a. The monthly rent payment for an Affordable Rental Unit, including utilities and parking, shall not exceed thirty percent (30%) of the maximum monthly income permissible for an Eligible Household, with price determined assuming a family size equal to the number of bedrooms in the unit plus one unless other affordable program rent limits approved by DHCD shall apply;
 - b. For an Affordable Homeownership Unit the monthly housing payment, including mortgage principal and interest, private mortgage insurance, property taxes, condominium and/or homeowner's association fees, insurance, and parking, shall not exceed thirty percent (30%) of the maximum monthly income permissible for an Eligible Household, assuming a family size equal to the number of bedrooms in the Dwelling Unit plus one; and
 - c. Affordable Units required to be offered for rent or sale shall be rented or sold to and occupied only by Eligible Households.
4. Design and Construction.
 - a. Design. Affordable Units must be comparable in initial construction quality and exterior design to the Unrestricted Units. However, nothing in this section is intended to limit a homebuyer's rights to renovate a Dwelling Unit under applicable law. The Affordable Units must have access to all on-site amenities. The total number of bedrooms in the Affordable Units shall, insofar as practicable, be proportionate to the total number of bedrooms in all units in the Development Project.
 - b. Timing. All Affordable Units must be constructed and occupied not later than concurrently with construction and occupancy of Unrestricted Units. For any Development Project that is approved in phases, the proportion of Affordable Units shall be consistent across all phases.
5. Age/Disability. At the Applicant's option, the Development Project may include the imposition of deed restrictions on Age or Disability to permit the Development Project to be exclusively for the elderly and/or persons with disabilities provided, however, that any such restrictions may not be applicable to the District as a whole.
6. Affordable Housing Restriction. Each Affordable Unit shall be subject to an Affordable Housing Restriction which is recorded with the Middlesex County Registry of Deeds or Land Court Registry District of Middlesex County. The Affordable Housing Restriction shall provide

for the implementation of the requirements of this By-Law. All Affordable Housing Restrictions must include, at minimum, the following:

- a. Description of the Development Project, including whether the Affordable Unit will be rented or owner-occupied.
- b. A description of the Affordable Unit by address and number of bedrooms.
- c. The term of the Affordable Housing Restriction shall be the longest period customarily allowed by law but shall be no less than thirty (30) years.
- d. The name and address of the Administering Agency with a designation of its power to monitor and enforce the Affordable Housing Restriction.
- e. Reference to a housing marketing and resident selection plan, to which the Affordable Unit is subject, and which includes an affirmative fair housing marketing program, including public notice and a fair resident selection process. The housing marketing and selection plan may provide for preferences in resident selection to the extent consistent with applicable law. The plan shall designate the household size appropriate for a unit with respect to bedroom size and provide that preference for such unit shall be given to a household of the appropriate size.
- f. A requirement that buyers or tenants will be selected at the initial sale or initial rental and upon all subsequent sales and rentals from a list of Eligible Households compiled in accordance with the housing marketing and selection plan.
- g. Reference to the formula pursuant to which rent of a rental unit or the maximum resale price of a homeownership unit will be set.
- h. A requirement that only an Eligible Household may reside in an Affordable Unit and that notice of any lease or sublease of any Affordable Unit to another Eligible Household shall be given to the Administering Agency.
- i. Provision for effective monitoring and enforcement of the terms and provisions of the Affordable Housing Restriction by the Administering Agency.
- j. Provision that the Restriction on an Affordable Homeownership Unit shall run in favor of the Administering Agency and the Town of Belmont, in a form approved by municipal counsel, and shall limit initial sale and re-sale to and occupancy by an Eligible Household.
- k. Provision that the Restriction on Affordable Rental Units in a rental Development Project or rental portion of a Development Project shall run with the rental Development Project or rental portion of a Development Project and shall run in favor of the Administering Agency and the Town of Belmont, in a form approved by municipal counsel, and shall limit rental and occupancy to an Eligible Household.
- l. Provision that the owner(s) or manager(s) of Affordable Rental Unit(s) shall file an annual report to the Administering Agency, in a form specified by that agency certifying compliance with the provisions of this By-Law and containing such other information as may be reasonably requested in order to ensure affordability.

- m. A requirement that residents in Affordable Units provide such information as the Administering Agency may reasonably request in order to ensure affordability eligibility and compliance.
 - n. Designation of the priority of the Affordable Housing Restriction over mortgages and other restrictions.
7. Administration. The Administering Agency shall ensure the following:
- a. Prices of Affordable Homeownership Units are properly computed; rental amounts of Affordable Rental Units are properly computed.
 - b. Income eligibility of households applying for Affordable Units is properly and reliably determined.
 - c. The housing marketing and resident selection plan conforms to all requirements and is properly administered.
 - d. Sales and rentals are made to Eligible Households chosen in accordance with the housing marketing and resident selection plan with appropriate unit size for each household being properly determined and proper preference being given.
 - e. Affordable Housing Restrictions meeting the requirements of this section are recorded with the Middlesex County Registry of Deeds or Land Court Registry District of Middlesex County.
8. The housing marketing and selection plan may make provision for payment by the Applicant of reasonable costs to the Administering Agency to develop, advertise, and maintain the list of Eligible Households, to conduct the housing lottery, and to monitor and enforce compliance with affordability requirements.

6C.12 Administration

The Approving Authority shall adopt and file with the Town Clerk administrative rules relative to the application requirements and contents for Site Plan Review. Such administrative rules and any amendment thereto must be approved by the Massachusetts Department of Housing and Community Development. The Site Plan Review process encompasses the following:

1. Pre-application Review. The Applicant is encouraged to participate in a pre-application review with the Oakley Neighborhood Association at any time and from time to time and with the Approving Authority at a regular meeting(s) of the Approving Authority. The purpose of the pre-application review is to minimize the Applicant's costs, and to obtain the advice and direction of the Approving Authority and the Oakley Neighborhood Association prior to filing the application. At the pre-application review the Applicant shall outline the proposal and seek preliminary feedback from the Oakley Neighborhood Association and the Approving Authority, other municipal review entities, and other members of the public. The Applicant is also encouraged to request site visits by the Oakley Neighborhood Association and/or the Approving Authority and/or its designee in order to facilitate pre-application review.
2. Application Procedures.
 - a. An application for Site Plan Approval shall be filed by the Applicant with the Town Clerk and a copy of the application including the date of filing certified by the Town Clerk shall be filed forthwith with the Approving Authority. The Applicant shall also file the required

- number of copies of the application with the Building Inspector and with the Approving Authority. Said filing shall include any required forms provided by the Approving Authority.
- b. As part of any application for Site Plan Approval, the Applicant must submit the following documents to the Approving Authority and the Administering Agency:
 - 1) Evidence that the Development Project complies with the cost and eligibility requirements of Section 6C.11.3;
 - 2) Development Project plans that demonstrate compliance with the requirements of Section 6C.11.4; and
 - 3) A form of Affordable Housing Restriction that satisfies the requirements of Section 6C.11.6.
 - c. Review fees. The Applicant shall be required to pay for reasonable consulting fees to provide peer review of the application for the benefit of the Approving Authority. Such fees shall be held by the Town of Belmont in an interest-bearing escrow account, and shall be used only for expenses associated with the use of outside consultants employed by the Approving Authority in reviewing the Site Plan application. Any surplus funds remaining after the completion of such review, including any interest accrued, shall be returned to the Applicant forthwith.
 - d. Upon receipt by the Approving Authority, applications for Site Plan Approval shall be distributed to the Board of Selectmen, Board of Health, Housing Trust, Housing Authority, Building Inspector, Conservation Commission, Zoning Board of Appeals, Department of Public Works, the Fire and Police Departments and the Water and Sewer Commission. Any reports from these parties shall be submitted to the Approving Authority within sixty (60) days of filing of the application.
 - e. Within thirty (30) days of filing of an application with the Approving Authority, the Approving Authority or its designee shall evaluate the proposal with regard to its completeness and shall submit an advisory report in writing to the Applicant certifying the completeness of the application. The Board or its designee shall forward to the Applicant, with its report, copies of all recommendations received to date from other boards, commissions or departments.
3. Public Hearing. The Approving Authority shall hold a public hearing and review all applications according to the procedure specified in Massachusetts General Law, Chapter 40R, Section 11.
 4. Prior to the granting of any Site Plan Approval for a Development Project, the Applicant must demonstrate, to the satisfaction of the Administering Agency, that the method by which such affordable rents or affordable purchase prices are computed shall be consistent with state or federal guidelines for affordability applicable to the Town of Belmont
 5. Site Plan Approval Decision.
 - a. The Approving Authority shall make a decision on the Site Plan application, and shall file said decision with the Town Clerk, within 120 days of the receipt of the application by the Town Clerk. The time limit for public hearings and taking of action by the Approving Authority may be extended by written agreement between the Applicant and the Approving Authority. A copy of such agreement shall be filed with the Town Clerk.

- b. Failure of the Approving Authority to take action within 120 days or extended time, if applicable, shall be deemed to be an approval of the application.
 - c. An Applicant who seeks approval because of the Approving Authority's failure to act on an application within the 120 days or extended time, if applicable, must notify the Town Clerk in writing, within fourteen (14) days from the expiration of said time limit for a decision, of such approval and that a copy of that notice has been sent by the Applicant to parties in interest by mail and that each such notice specifies that appeals, if any, shall be made pursuant to Massachusetts General Law, Chapter 40R and shall be filed within twenty (20) days after the date the Town Clerk received such written notice from the Applicant that the Approving Authority failed to act within the time prescribed.
 - d. The Approving Authority's findings, including the basis of such findings, shall be stated in a written decision of approval, conditional approval or denial of the Site Plan Approval application. The written decision shall contain the name and address of the Applicant, identification of the land affected and its ownership, and reference by date and title to the plans that were the subject of the decision.
 - e. The decision of the Approving Authority, together with the detailed reasons therefore, shall be filed with the Town Clerk, the Board of Appeals and the Building Inspector a copy of the decision shall be mailed to the Applicant and to the owner if other than the Applicant by the Approving Authority certifying that a copy of the decision has been filed with the Town Clerk and that all plans referred to in the decision are on file with the Approving Authority. A notice of the decision shall be sent to parties in interest, the Oakley Neighborhood Association, c/o Town of Belmont Planning and Economic Development Manager, and to persons who requested a notice at the public hearing.
 - f. Effective date. If twenty (20) days have elapsed after the decision has been filed in the office of the Town Clerk without an appeal having been filed or if such appeal, having been filed, is dismissed or denied, the Town Clerk shall so certify on a copy of the decision. If the application is approved by reason of the failure of the Approving Authority to timely act, the Town Clerk shall make such certification on a copy of the application. A copy of the decision or application shall be recorded with the title of the land in question in the Middlesex County Registry of Deeds or the Middlesex Land Registry District, and indexed in the grantor index under the name of the owner of record or recorded and noted on the owner's certificate of title. The responsibility and the cost of said recording and transmittal shall be borne by the Applicant.
6. Criteria for Approval. The Approving Authority shall approve the Development Project upon finding that it complies with the requirements of the OL and applicable Design Standards.
 7. Criteria for Conditional Approval. The Approving Authority may impose conditions on a Development Project as necessary to ensure compliance with this Section 6C and applicable Design Standards, or to mitigate any extraordinary adverse impacts of the Development Project on nearby properties, insofar as such conditions are compliant with the provisions of Massachusetts General Law, Chapter 40R and applicable regulations and do not Unduly Restrict opportunities for development. The Approving Authority may require construction of an approved Development Project to be phased for the purpose of coordinating the Development Project with any mitigation required to address extraordinary adverse Development Project impacts on nearby properties.

8. **Criteria for Denial.** The Approving Authority may deny an application for Site Plan Approval pursuant to this By-Law if the Board finds one or more of the following:
 - a. The Development Project does not meet the conditions and requirements set forth in the OL Zoning and applicable Design Standards.
 - b. The Applicant failed to submit information and fees required by the OL Zoning and necessary for an adequate and timely review of the design of the Development Project or potential Development Project impacts.
 - c. It is not possible to adequately mitigate significant adverse Development Project impacts on nearby properties by means of suitable conditions.
9. **Time Limit.** A project approval shall remain valid and shall run with the land indefinitely provided that construction has commenced within two (2) years after the decision issues, which time shall be extended by the time required to adjudicate any appeal from such approval. Said time shall also be extended if the project proponent is actively pursuing other required permits for the project or if there is good cause for the failure to commence construction, or as may be provided in an approval for a multi-phase Development Project.
10. **Appeals.** Pursuant to Massachusetts General Law, Chapter 40R, Section 11, provided a bond thereby is duly posted, any person aggrieved by a decision of the Approving Authority may appeal to the Superior Court, the Land Court, or the District Court within twenty (20) days after the Site Plan decision has been filed in the office of the Town Clerk.

6C.13 Waivers

The Approving Authority may authorize waivers with respect to the dimensional and other standards set forth in this Section 6C in the Site Plan Approval upon a finding that such waiver will allow the Development Project to achieve the affordability and/or physical character allowable under this By-Law. However, the Approving Authority may not waive any portion of the Affordable Housing requirements in Section 6C.11 except insofar as such waiver results in the creation of a number of Affordable Units in excess of the minimum number of required Affordable Units.

6C.14 Fair Housing Requirement

All Development Projects within the OL shall comply with applicable federal, state and local fair housing laws.

6C.15 Annual Update

On or before July 31 of each year, the Board of Selectmen shall cause to be filed an Annual Update with the Department of Housing and Community Development (DHCD) in a form to be prescribed by DHCD. The Annual Update shall contain all information required in 760 CMR 59.07, as may be amended from time to time, and additional information as may be required pursuant to Massachusetts General Law, Chapter 40S and accompanying regulations. The Town Clerk shall maintain a copy of all updates transmitted to DHCD pursuant to this By-Law, with said copies to be made available upon request for public review.

6C.16 Notification of Issuance of Building Permits

Upon issuance of a residential building permit within the OL, the Building Inspector shall cause to be filed an application to the DHCD in a form to be prescribed by DHCD, for authorization of

payment of a one-time density bonus payment for each residential building permit pursuant to Massachusetts General Law, Chapter 40R. The application shall contain all information required in 760 CMR 59.06 (2), as may be amended from time to time, and additional information as may be required pursuant to Massachusetts General Law, Chapter 40S and accompanying regulations. The Town Clerk shall maintain a copy of all such applications transmitted to DHCD pursuant to this By-Law, with said copies to be made available upon request for public review.

6C.17 Date of Effect

The effective date of this By-Law shall be the date on which such adoption is voted upon by Town Meeting pursuant to the requirements of Massachusetts General Law, Chapter 40A, Section 5 and Massachusetts General Law, Chapter 40R; provided, however, that an Applicant may not proceed with construction pursuant to this By-Law prior to the receipt of final approval of this By-Law and accompanying Zoning Map by both the Department of Housing and Community Development and the Office of the Massachusetts Attorney General.

6C.18 Severability

The provisions of this Section are severable. If any provision of this Section is held invalid, the other provisions shall not be affected but shall remain in full force.