

XI.H.2 LOWER MILLYARD OVERLAY DISTRICT (LMOD) - SPECIAL PERMIT

1. **Purpose:** A Lower Millyard Overlay District (“LMOD”) and LMOD Special Permit (LMOD-SP) are established due to the unique natural resources, historic land use, and cultural significance of the properties located along the Powow River and the industrial area abutting it. This overlay district shall encourage the implementation of the recommendations of the 2004 Master Plan, as amended and supplemented from time to time for the Lower Millyard Area and serve to :
 - a. Provide a mixture of land usage within the Town of Amesbury;
 - b. Allow greater density and intensity of residential development than would normally be allowed provided that the land usage can be shown to be in the public good;
 - c. Encourage historic preservation, infill development and adaptive re-use of historic structures in applicable zoning districts;

Lower Millyard Overlay District

- a. encourage a pedestrian friendly mixed-use environment with ties to downtown, maximize the recreational assets of the waterways and bike path,
 - b. Encourage a building pattern, scale, setbacks, height, density, and design conforming to that now found in the historic downtown business district;
 - c. Encourage a pattern of building development similar to the existing downtown by eliminating excessive "yard setback requirements," and providing mandatory "build-to" lines;
 - d. Encourage mixed-use buildings with commercial uses on the ground floor and housing and/or offices above;
 - e. Promote a lively mixed-use district that will serve Amesbury’s citizens and visitors with ample public space and intimately scaled streets and public pedestrian ways with key views and access to the River
 - f. Diminish the visual impact of the parked car by discouraging expansive surface parking lots and encouraging structured parking;
 - g. Encourage "shared parking" strategies in mixed-use projects to diminish overall parking requirements;
 - h. Provide incentives to construct pedestrian ways such as pedestrian alleys, sidewalk plazas and other public open spaces. Also provide incentives to pool and contribute private open space required by zoning to public open space areas;
 - i. Protect the architectural, cultural, economic and cultural heritage of the Lower Millyard area through preservation and adaptive reuse of existing historic structures and mill buildings; and
 - j. Encourage affordable housing within an overall density that is generally consistent with the Zoning Ordinances and the downtown districts.
2. **Establishment:** The LMOD is hereby established as an overlay district as shown on the Zoning Map of Town of Amesbury. Within the LMOD, the provisions of the underlying Central Industrial (IC) Zoning District shall remain in full force and effect except where a LMOD-SP is issued whereby the provisions of the LMOD shall apply to the extent different than those of the underlying district.
 3. **Permitted Uses:** In addition to uses permitted in the IC district in the table of allowable uses, the following uses may be permitted in the LMOD by a LMOD-SP issued by the Planning Board without the approval of any other special permit granting authority:
 - Office and retail without drive-thru’s;
 - professional/business offices,
 - personal services,
 - Multi-family residential
 - Artist live/work space
 - Accessory Marina
 - Accessory Parking Structure

The LMOD-SP may also allow any other uses permitted by Special Permit within the IC district under the table of allowable uses.

4. **Dimensional & Density Regulations:** For all new construction, alterations or additions in the LMOD and subject to a LMOD-SP, the following requirements shall apply:

A. Dimensional & Density Requirements:

Lower Millyard Overlay District - Special Permit Area (LMOD-SP Area): All use categories allowed in the LMOD shall comply with the following requirements as applied to the LMOD-SP Area, notwithstanding the subdivision of the LMOD-SP Area into separate lots. The LMOD-SP Area shall include the total land area that is subject to the LMOD-SP application as approved by the LMOD-SP, and shall comply with the following requirements:

- Minimum Open Space (as defined below): 50% of the LMOD-SP Area, excluding public streets.
- Maximum Area Coverage: 50% of portion of LMOD-SP Area and not including any area within 100 feet of Powow River.

LMOD-SP Area - Lot Requirements: *Each lot and the buildings on each lot within the LMOD-SP Area shall comply with the following requirements:*

- Minimum Street Frontage: 60 feet;
- Front Yard Setbacks: 0 feet minimum with up to a 8 foot maximum building setback to allow for traffic visibility across corners and driveways and design articulations such as protruding architectural features (i.e. bay windows, porches & stoops) provided such setbacks do not affect more than 40% of the streetscape on any block;
- Minimum Side & Rear Yard setbacks: 0 feet
- Minimum Lot Area: 5000 SF;
- Maximum Building Height: 40 feet, except as allowed in Section XI.H.2.8.2;

B. Public Open Space Requirements: At least 50% of the LMOD-SP Area shall be open space, excluding public streets. All sidewalks adjacent to a public street layout shall be dedicated by easement or deed for public access. 50% of the required minimum open space shall be so dedicated. All open space dedicated by easement or deed for public access shall be improved by the project Applicant to quality standards and configurations suitable for their intended uses and acceptable to the Planning Board.

For purposes of this Section, open space shall be defined as usable areas devoted exclusively for outdoor active or passive recreation, pedestrian alleys, walkways, sidewalks (other than the existing sidewalks), public parks, plazas, outdoor public markets, public restrooms, outdoor cafe space on private property or licensed from the Town if located on a sidewalk, and suitably designed and accessible space on roofs of a parking garage with at grade public access on at least two sides and alleyway connections to the abutting streets, or other similar outdoor public open space areas. At least one public open space area within each LMOD-SP Area shall be at least 5000 square feet in area excluding any adjacent parking, driveway, sidewalk or pedestrian walkways.

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The required open space may be conveyed to the Amesbury Conservation Commission, to a nonprofit conservation organization, or to a corporation or trust representing the ownership of the project and shall be protected by the conservation restriction as required in Chapter 40A, Section 9, General Laws, for common open space. A covenant shall be placed on the land such that no part of the project can be built, sold or occupied until such time as a satisfactory written agreement has been executed for protection of the open space.

- C. *Chapter 91 Commonwealth and Zoning Requirements:* Any Commonwealth Chapter 91 requirement for the provision of publicly-accessible open space, facilities of public accommodation, pathways along the riverfront edge or the like shall be fully complied with. No more than 50% of the open space area required by this Section shall be part of the public open space required under Chapter 91 within the 100 foot buffer area of the Powow River. No building or structure shall be permitted within the lesser of (i) fifty (50) feet of the high water mark of the Powow River, or (ii) the limits of the water dependent use zone under Chapter 91.
- D. *Implementation of Development:* Minimum lot area coverage, open space, affordable housing, off-street parking requirements and other required mitigation, shall correspond with the sequence of development implemented in the LMOD-SP Area, so that at all times such requirements shall be met as applied only to those portions of the LMOD-SP Area for which building permits have been issued; such requirements shall be met prior to the issuance of certificates of occupancy for such buildings. The Planning Board shall follow the requirements listed in Section 8 of the Amesbury Subdivision Rules and Regulations to insure compliance with such mitigation requirements related to such issued building permits under the LMOD-SP. The Planning Board shall follow the requirements listed in Section 6.09 of the Amesbury Subdivision Rules and Regulations to insure adequate construction of ways and compliance with other requirements of the Subdivision Rules and Regulations.

5. Parking Requirements: All required parking within the LMOD-SP Area shall be provided by the applicant without the use of municipal parking lots or structures. The off-street parking requirements for (i) non-residential uses, shall be within five hundred (500) feet of the principal building, structure or use on the premises; and (ii) residential uses, shall be within three hundred (300) feet of the principal building, structure or use on the premises; The LMOD-SP may allow "shared" reduced parking requirements for uses having different peak times of parking demand requirements, as determined based on the report of a traffic engineer engaged by the Applicant and approved by the Planning Board. Within the LMOD-SP Area, parking requirements may be met by off-street parking in accordance with Section VII, as modified by this paragraph, and by proposed on-street parking within the LMOD-SP Area.

6. Special Permit Procedure & Criteria: The special permit shall conform to this title and to Chapter 40A, Section 9, General Laws, and to regulations which the Planning Board shall adopt from time to time for carrying out its requirements under this title. An application for a LMOD-SP and Amendment to a LMOD-SP shall be submitted and reviewed in accordance with the procedures listed in Section X.J. The Planning Board may issue a LMOD-SP for a project located within the LMOD if it determines that the project meets the requirements of this Section and the Special Permit criteria of Section X.J.5. The plan shall be subject to the conditions of approval as determined by the Planning Board. The Board shall make a determination that the project meets all the requirements of this Section and all of the following criteria:

- a. The project is consistent with the purposes set out in paragraph XI.H.2.1
- b. The site layout and building designs provide convenient and efficient pedestrian access within the Lower Millyard Overlay District and to surrounding neighborhoods and facilities;
- c. Provides a safe and comfortable pedestrian environment with walkways, pedestrian conveniences and amenities
- d. Encourages buildings with a pedestrian oriented scale and design
- e. The Board shall adopt recommendations from other boards and committees regarding, among other things, the architectural value and significance of the site, building, or structure, the general design, arrangement and texture, material and color of the features involved and the relation of such features to similar features of buildings and structures in the surrounding area.
- f. In the case of new construction or additions to existing buildings or structures, the Planning Board shall consider the appropriateness of the size and shape of the

- buildings or structure both in relation to the land area upon which the building or structure is situated and to the buildings or structures in the vicinity.
- g. In appropriate cases, impose dimensional and setback requirements in addition to those required by this title, provided no further zoning relief is required. The Planning Board shall not consider interior arrangements not subject to public view; and
 - h. The project has been reviewed and approved by the Planning Board as to its design and architectural consistency.

7. Additional Requirements:

- A.** LMOD-SP Area Requirements: The minimum land area eligible for a LMOD-SP in a single or consolidated ownership or control at the time of application is one (1) contiguous acre. For the purposes of this Section, land divided by public and private streets and public and private open space shall be deemed to be contiguous. Subsequent to the issuance of a LMOD-SP, applications for amendments or additions to the [LMOD-SP](#) shall not require that the land be in a single or consolidated ownership or control. The Planning Board may allow subsequent land area to be added to the LMOD-SP Area, by way of an amendment to the LMOD-SP, which shall require the consent of the original applicant(s) or its/their successor(s). An amendment to the LMOD-SP to add land to the LMOD-SP Area that is not in consolidated ownership or control of the original applicant(s) or its/their successor(s), may not utilize any of the open space, utilities, streets, parking or any other requirements of the LMOD-SP to meet the requirements of zoning unless authorized by the Planning Board and the original applicant(s) or its/their successor(s). Any resulting amended plan must meet all of the applicable open space, utilities, parking and other requirements.
- B.** Affordable Housing: At least 15% of all proposed residential dwelling units in the LMOD-SP Area shall be affordable as defined under M.G.L.A. 40B s. [20 and 760 CMR 45](#). Such units shall remain [affordable in perpetuity](#).
- I.** Declaration of Covenants, Conditions and Restrictions: Prior to the issuance of a building permit for any land within the LMOD-SP Area, a Declaration of Covenants, Conditions and Restrictions shall be recorded by the owner(s) against all the land in the LMOD-SP Area containing provisions consistent with the requirements and restrictions of the LMOD-SP.

8. Site Plan Review:

- 1. SPR Requirements for the LMOD-SP:** Site plan approval for a LMOD-SP shall be subject to the following criteria, The SPR Procedure for a LMOD-SP shall consist of SPR review as provided for in Section XI.C of the zoning ordinance and the requirements of this Section. Site Plan Approval for projects within the LMOD shall also be subject to the following where indicated herein and to the extent these requirements and/or standards are inconsistent with Section XI.C.8
- 2. Design and Performance Standards**

Building Height: Building height is measured from the mean grade elevation (average grade around perimeter of building) to the mean roof elevation (one-half the vertical distance from eave to ridge), except that building height for a parking structure with an open roof and parapet design shall be measured to the upper plane of the top floor of the upper parking level.

Building entirely above structured parking shall have a maximum building height of 45 feet from the existing average grade around the perimeter of building.

Towers, cupolas and other architectural features which extend above the maximum building height shall be allowed at the discretion of the planning board provided these elements occupy no more than 10% of any

building façade or combination of two facades which adjoin at a corner.

- a. A roof dormer located along the public way may not exceed the mean roof elevation for more than 30% of the total roof area measured on that side of the roof pitch in which such dormer is located and shall not include ganged windows.
- b. Recessed dormers may be permitted along the rear side of the building such that they are not visible from a public way or pedestrian walkway.
- c. The use of skylights along the public way is strongly encouraged to maintain the historic roof patterns of the neighboring residential and downtown business districts.
- d. Furthermore, the roof heights of buildings and top cornice heights that front on public ways running perpendicular to the water's edge should use architectural means to emphasize the natural declining slope of the site, in stepped increments, as they approach the water's edge. Each such horizontal stepped increment shall be no longer than 100 feet in length and may be increased at the planning board's discretion.

Building Design: The following design standards shall be used for new development in the LMO district:

- i. Continuous street facades with firewalls between adjacent buildings;
- ii. The use of pedestrian passageways within and between buildings to provide access and views to the water;
- iii. All buildings should front directly on the public street or on a private street or pedestrian walkway with front doors;
- iv. Service access should be provided to the rear wherever possible;
- v. Buildings that front on sloping streets should follow the grade of the street such that the businesses have entrances at grade. Blank walls emerging from the slope should be minimized;
- vi. A traditional pattern of vertically proportioned double-hung sash framed windows and doors facing all public ways is recommended; New buildings or additions should be harmonious with the scale, proportion, materials and color of the existing historic buildings in downtown Amesbury. They should be compatible in size, scale, material, color, and character of the existing historic buildings downtown. The use of natural materials such as masonry, stone, brick and woods as primary facing or siding is recommended. For additions to existing historic structures, compatibility should be based on the specific style and massing of the original structure and the surrounding neighborhood context; Consistent with the historic character of existing buildings within the downtown business district, the roof forms of all buildings, except parking structures, shall be encouraged to be sloped, pitched or mansard. However, limited use of flat roofs may also be permitted by the Board;
- vii. Large buildings for residential uses and business uses shall be encouraged to be articulated to create an image of smaller buildings attractively joined together through architectural means such as varied building setbacks, bay treatments or top cornice heights and styles.
- viii. The buildings and top cornice heights that front on public ways running parallel to the water's edge should have varied heights and styles.
- ix. Building facades facing streets or pedestrian plazas are also referred to herein as the building front(s) or building front façade(s). Such building fronts shall have a vertical orientation, meaning either that the building shall actually have a greater height than width, or that the façades and roof lines of the building are designed to reduce the massing and bulk so that it appears as a group of smaller masses with distinct vertical orientation;
- x. Mirror windows and highly reflective surfaces shall not be allowed on the building fronts;
- xi. The building front(s) shall contain windows covering at least 15 percent of the façade surface. Windows shall be highlighted with frames, lintels, and sills, or equivalent trim features as found in the Amesbury central business district;
- xii. On the street level, the amount of windows in the façade surface shall be at least 20 percent but not larger than 80 percent. Display windows shall be framed on all sides by the surrounding wall. They shall be highlighted with frames, lintels

- and sills or equivalent trim features, or may instead be recessed into the wall or projected from the wall;
- xiii. Garage doors or loading docks shall not be allowed in the building fronts;
 - xiv. The building front facades shall be articulated to achieve a human scale and interest. The use of different textures, shadow lines, detailing and contrasting shapes is required. No more than 50 feet of a building front shall be in the same vertical plane;
 - xv. Except for ground level display windows, windows shall have a 2:1 ratio of height to width;
 - xvi. Roofs shall be gabled with a minimum pitch of 9/12 (9" vertical for every 12" horizontal) and have overhanging eaves of at least one foot. Two or three story buildings, or two or three story portions of a building, may have a flat roof provided that the tops of the building front facades are treated with an articulated cornice, dormers, or other architectural treatment that appears an integral part of the building from all visible sides of the building;
 - xvii. Rooftop mechanical equipment shall be screened from public view by the use of architecturally compatible materials;
 - xviii. Accessory structures, air conditioning equipment, electric utility boxes, trash receptacles and other ground level utilities shall be unobtrusive when viewed from the street and adjacent lots;
 - xix. Signage – Signs for commercial establishments shall be permitted according to the regulations for the Central Business District and as stated under Section VII.5.C of the ordinance;
 - xx. Facades of all buildings greater than 3 stories shall be brick masonry for at least 50% of their surface.
 - xxi. Walls around structured parking extending above grade shall be treated with architectural elements consistent with the buildings elsewhere on the site.

Public Street Water Vista View Termination: New public streets constructed perpendicular to the water's edge shall terminate in water views.

Public Streets and Public Pedestrian Alleyways: Proposed public and private ways shall conform to Section 7.09 of the Amesbury Subdivision Regulations, as amended. Sidewalks and pedestrian alleyways shall be paved with brick or cobble stone.

Above Grade or Underground Parking Structures or Facilities/Ground Floor Use: Parking Structures, whether above grade or partially below grade, fronting on a public right of way or a pedestrian way along the riverfront shall include active ground floor commercial uses along a minimum of 50% of the structure's length facing such public right-of-way or street.

First Floor Uses: The first floor use along the building perimeter of all new buildings, including expansion and additions to existing buildings or buildings fronting a public right of way or a pedestrian walkway along the water's edge should be devoted to commercial, retail, or restaurant use and incorporate glazed storefront windows and shop entry doors in keeping with traditional architectural styles found elsewhere in downtown, except that 20% of such first floor use along the building perimeter shall be permitted to be accessory to any upper level uses. This percentage may be increased to 35% at the discretion of the planning board. Such first floor uses are desirable, but not required along all other private streets and pedestrian ways.

- 1. LMOD-SP Master Plan Site Plan Review:** A Master Site Plan shall be prepared and submitted for the Planning Board's SPR for the development and/or redevelopment of a LMOD-SP Area in its entirety, even if such property(ies) is/are developed incrementally over an extended period of time. The Master Plan shall illustrate both the initial development proposal as well as developments intended to be implemented over time. The Master Site Plan submitted for SPR shall include the submittal requirements in Section XI.C.5, and a narrative and illustrative submittals on urban design objectives and architectural design standards (including all buildings, open space improvements and proposed signage) shall be submitted. In addition to such, the Master Plan shall include a context map indicating adjoining properties and streets; the proposed sequence of development; an illustrative timetable for development; the proposed location of all streets, walkways, and open spaces, proposed topography, lot layout, landscaping, signs, lighting and utilities; building locations, design and heights, presented at a level of conceptual design plans; parking locations and amounts,

including the manner in which parking requirements will be met prior to full build-out of the development; required easements and deeded areas; view corridors to be fully established and preserved from public right of way toward the water; and a listing of all waivers requested.

1. **LMOD-SP Building Permit Review:** The submittals for building permit approval shall include the submittal requirements of Section XI.C.5 and Section XI.C.6 and certification documenting the manner in which the requirements of the LMOD-SP, including the off-street parking requirements, are met by each application for a building permit.

A. Site Plan: The final plan shall show the following information and meet the following requirements:

1. It shall be drawn at a scale of one (1) inch equals forty (40) feet, unless another scale is previously requested and found suitable by the Planning Board.
2. A professional engineer, registered architect, or registered landscape architect shall prepare the Site Plan.
3. The plan shall be stamped by the registered land surveyor who performed the boundary survey and who shall certify the accuracy of the locations of the buildings, setbacks, and all other required dimensions, elevations, and measurements and shall be signed under the penalties of perjury.
4. A utilities and drainage plan shall be prepared by a professional engineer.
5. The scale, date, and north arrow shall be shown.
6. Lot number, dimensions of lot in feet, size of lot in square feet, and width of abutting street and ways.
7. Easements within the lot and abutting thereon.
8. The location of existing or proposed buildings on the lot shall be prepared by a registered architect to include the total square footage and dimensions of all buildings, all building elevations and floor plans, and perspective renderings. Further, the depiction of materials and colors to be used shall be required.
9. The total number of establishments and dwelling units.
10. The location of existing wetlands, water bodies, wells, one-hundred-year Floodplain elevation and other natural features.
11. The distance of existing and proposed buildings from the lot lines and the distance between the buildings on the same lot.
12. Percent of building lot coverage.
13. Average height of each building (see definition).
14. The elevation above average finished grade of the floor and ceiling of the lowest floor of each building.
15. Existing and proposed topographical lines at two-foot intervals.
16. The use designation of each building or part thereof, and of each section of open ground, plaza, or usable roof space.
17. Number of parking spaces.
18. Height of all buildings, above average finished grade of the abutting streets.
19. A landscape plan to include the total square feet of all landscape and recreation areas, and depiction of materials to be used, and the quantity, size, and species of plantings.
20. Deed or other recorded instrument that shows the applicant to be the owner under option of the land to be designated as a MUD and that the land is in single or consolidated ownership at the time of final plan application.
21. The applicant shall submit such materials as may be required regarding: measures proposed to prevent pollution to surface water or groundwater, soil erosion, increased runoff, and flooding; design features intended to integrate the proposed new development into the existing landscape, to enhance aesthetic assets, and to screen objectionable features from neighbors; proposed lighting and landscaping in surface parking areas; projected traffic flow patterns into and upon the site for both vehicles and pedestrians and an estimate of the projected number of motor vehicle trips to and from the site for an average day and for peak hours.

9. **Project Changes:**

- A. If future implementation of development subsequently requires major changes or alterations to the approved LMOD-SP, such changes or alterations are subject to

the Planning Board's approval of (1) an amendment to the LMOD-SP and (2) an amendment to the initial SPR decision, administratively reviewed by the Planning Board under Section XI.C. Amendments to the LMOD-SP and the SPR decision shall be based upon the zoning provisions in effect at the time of issuance of the approved LMOD-SP unless the applicant and the Planning Board agree that such amendment shall be based upon the zoning provisions in effect at the time of application for such amendment.

Any resulting amended plan must meet all of the applicable open space, utilities, parking and other requirements.

Any one of the following changes or modifications shall require Planning Board approval. Major changes or alterations shall be defined as those that:

- (a) increase the aggregate approved amount of development by greater than 10% of the approved gross floor area in the LMOD-SP Area, or;
- (b) increase the approved density of multi-family uses, alter the approved location and/or increase the approved gross floor area of commercial uses by greater than 20% of the aggregate approved amount of development or conversion of ground floor non-residential use to residential use;
- (c) Substantially change the pattern of streets, substantially change the building design standards, or substantially alter the distribution or use of open space within the LMOD-SP Area; or
- (d) are based on a request by the applicant that a change or alteration be based upon the zoning provisions in effect at the time of application for the change or alteration.

In determining whether a change is "substantial" for the purposes of clause (c), a change which conforms to the Design and Performance Standards of Section XI.H.2.8.2 shall not be considered to be substantial. Minor additions, alterations or extensions of pre-existing non-conforming buildings within the LMOD-SP Area may also be permitted by a revision to the approved LMOD-SP, which shall not be considered to be substantial, provided that such additions, alterations or extensions are in conformity with Section XI.H.2 and the LMOD-SP and are approved by the original applicant(s) and its/their successor(s) for the LMOD-SP as provided in Section XI.H.2.7A

All changes or alterations below these thresholds shall be regarded as minor and shall not be subject to the administrative procedures of XI.C but still require Planning Board approval for amendment to the LMOD-SP. If minor changes or alterations are determined by the Planning Board to not be in substantial compliance with the requirements of this section, additional review and approval by the Planning Board must be obtained prior to issuance of the Building Permit.

- B. Revised Site Plan documents submitted to the Planning Board in connection with any requested amendments to the LMOD-SP or SPR shall reflect any changes approved both within the LMOD-SP Area as well as any approved and/or constructed changes on adjacent properties or along adjacent streets in the immediate vicinity of the LMOD-SP Area.

- 10. **Severability:** The provisions of this section are severable and, in the event that any provision of this section is determined to be invalid for any reason, the remaining provisions shall remain in full force and effect.