

2200.00 *HOUSING FOR OLDER PERSONS DEVELOPMENTS*

The Town of Brookline recognizes the need to provide special housing opportunities for older persons. Such housing must be well sited and designed to meet the special needs of this age group. Housing for Older Person Developments may be located as an overlay zone wherever the conditions described in the sitting requirement standards, below, can be met. Housing for Older Person Developments shall be reviewed under the site plan *or subdivision* regulations of the Town of Brookline in addition to the requirements of this ordinance. Whenever a conflict occurs between this ordinance and the site plan regulations, the more restrictive requirements shall apply.

2201.00 *Purpose and Intent*

- a. It is a goal of the Town of Brookline to promote the development of housing designed to meet the special needs of older persons.
- b. This ordinance operates as an Overlay Zoning District.
- c. It is the intent of the Town of Brookline to provide for the special needs of older persons by allowing for Housing for Older Persons developments with unique dimensional and institutional requirements that meet the social, mobility and safety needs of this age group.
- d. Housing developed in this section must be established and maintained in compliance with all applicable state and federal laws with respect to such housing and/or medical care, including the Fair Housing Act, as amended, 42 USC Sec 3601 et seq., NH RSA 354-A:15 and the NH Code of Administrative Rules, Hum 300 et seq.
- e. Pursuant to RSA 354-A:15, II and III, it is recognized that prohibitions against housing discrimination do not apply to housing for older persons, which conforms to all applicable rules and regulations.
- f. The intent of this ordinance is to foster development of housing for older persons while detailing local planning standards and, where practical, promoting consistency with land use policies in the Brookline master plan, zoning ordinance and subdivision and site plan regulations.
- g. It is the intent of this ordinance to regulate the intensity and mix of different types of dwelling units required to meet the needs of those citizens so as to provide ample indoor and outdoor livable space and to retain a sense of personal identity, intimacy and human scale within the development.
- h. It is the intent of this ordinance to review the density, scale and spacing of buildings, and the traffic circulation and parking pattern within the development to ensure that adequate light, air, privacy, community space, landscaping and open space for passive and active recreation are provided within the development.

2202.00 *Definitions*

Any term not defined here shall have the same meaning as defined in Section 200.00 of this Ordinance.

~~2102.01~~ a. *Housing for Older Person Developments.* A development intended and operated for occupancy by persons 55 years of age or older where at least 80 percent of the occupied units are occupied by at least one person who is 55 years of age or older, the facility publishes and adheres to policies and procedures that demonstrate an intent to maintain the development's status as an age restricted community and the facility or community complies with rules adopted by the State Commission for Human Rights for verification of occupancy.

~~2102.02~~ b. *Impact Fee.* A fee or assessment imposed upon development, including subdivision, building construction or other land use change, in order to help meet the needs occasioned by that development for the construction or improvement of capital facilities owned or operated by the municipality, including and limited to water treatment and distribution facilities; wastewater treatment and disposal facilities; sanitary sewers; storm water, drainage and flood control facilities; public road systems and rights-of-way; municipal office facilities; public school facilities; the municipality's proportional share of capital facilities of a cooperative or regional school district of which the municipality is a member; public safety facilities; solid waste collection, transfer, recycling, processing and disposal facilities; public library facilities; and public recreational facilities not including public open space.

~~2102.02~~ *Off-site Improvement / Exaction.* Those improvements that are necessitated by a development but which are located outside the boundaries of the property that is subject to a subdivision plat or site plan approval by the planning board. Such off-site improvements shall be limited to any necessary highway, drainage and sewer and water upgrades pertinent to that development.

2203.02 Siting Requirements

Development Tract Size. A single parcel of land with a minimum of ten (10) contiguous acres of land. Multiple lots must be consolidated prior to approval under this ordinance. As an Overlay District, and requiring a single parcel of land, HOP developments are exempt from the single dwelling per building lot requirement of the zoning ordinance, as approved by the Planning Board following Site Plan review and recorded at the Hillsborough County Registry of Deeds (HCRD). Land divided by a legally accepted or dedicated pre-existing public road shall not be deemed contiguous. Following approval, the development site may not be re-subdivided.

2203.02 Development and Unit Requirements.

- a. **Open Space** – There shall be an open space component to every housing for older persons development. At least twenty (20) percent of the total tract area must be set aside as permanently protected open space for low-impact recreation, conservation, agriculture or forestry-related uses. No more than 45% of the required open space can consist of wetlands or slopes exceeding 25%.

At least fifty (50) percent of the required open space area shall be available and managed for the passive or active recreational activities of the residents. This area may consist of walking trails, informal meeting areas, gardens, active recreation areas, or other recreational amenities. The open space shall be either *managed by the development ownership for the benefit of residents or* conveyed to an association of unit owners in the

development, or, where the Planning Board finds it in the public interest, this land may be conveyed to the Town or shall be permanently protected in other suitable ways which would ensure the continued use and maintenance of the land for its intended purpose.

b. Dimensional Requirements

1. Frontage: Tracts being developed for Housing for Older Persons developments require at least fifty (50) feet of frontage on a public road.
2. Dwelling Unit Density:
 - a) Residential/Agricultural District: Each dwelling unit requires a minimum of one-half (.5) acre *lot or limited common area* of contiguous non-steep slope upland associated with it. Adequate and appropriate on-site space must be provided for parking, buildings, wells, septic systems and all other infrastructure and utilities, regardless of the maximum allowable density. The tract must be able to accommodate wells and septic systems for all units in a manner that meets Brookline and State of New Hampshire requirements. Community well and septic systems are permitted provided they meet all Brookline and State of New Hampshire requirements.
 - b) Commercial/Industrial District: There shall be no more than six (6) bedrooms per acre of usable land. Adequate and appropriate on-site space must be provided for parking, buildings, well, septic systems and all other infrastructure and utilities, regardless of the maximum allowable density. Community well and septic systems are permitted provided they meet all Local and State requirements.
3. Site Perimeter Buffer:
 - a) Residential/Agricultural District: Each development must be situated within a permanently protected undeveloped site perimeter buffer, identified on the site plan, not less than 50 feet wide or a value as deemed necessary by the Planning Board on back and all boundaries of the original parcel except for access to connecting roads, which, unless it is already wooded and satisfactory to the Planning Board, must be planted and landscaped so as to provide a visual barrier between the development and adjacent properties. The Planning Board may require additional buffer width where unique circumstances of an abutting use or property warrant. The site perimeter buffer shall not count towards the required minimum protected open space.
 - b) Commercial/Industrial District: When abutting residential/agricultural properties, each development must provide a permanently protected undeveloped buffer not less than 50 feet wide from the common property line or a value as deemed necessary by the Planning board on the boundaries of the original parcel except for access to connecting roads, which, unless it is already wooded and satisfactory to the Planning Board, must be planted and landscaped so as to provide a visual barrier between the development and adjacent properties. The Planning Board may require additional buffer width where unique circumstances of an abutting use or property warrant. The 50 feet buffer shall not count towards the required minimum protected open space.
4. Setbacks and unit separation: All structures shall be set back at least 25 feet from the 50- foot site perimeter buffer. In addition, developments located on public roads must

meet the standard building setbacks as specified for the applicable district in the Brookline Zoning Ordinance. One (1) story buildings must be separated by at least twenty-five (25) feet. Two (2) or more story buildings must be separated by at least thirty-five (35) feet.

5. Unit Standards:

a) Residential/Agricultural District: There shall be no more than two (2) bedrooms per dwelling unit. One (1) bedroom units must contain at least five hundred-fifty (~~550~~ 576) square feet of heated living space. Two (2) bedroom units must contain at least seven hundred and fifty (750) square feet of heated living space. Units may be single and detached or attached in duplex fashion, with a maximum of four (4) units per building. Attached garages and breezeways are acceptable but do not count towards the minimum required living space. Each building with dwelling unit(s) can be a one or a two-story structure.

b) Commercial/Industrial District: There shall be no more than two (2) bedrooms per dwelling unit. One (1) bedroom units must contain at least five hundred-fifty (550) square feet of heated living space. Two (2) bedroom units must contain at least seven hundred and fifty (750) square feet of heated living space. Units may be single detached or attached in duplex fashion or be part of an apartment building. Each apartment building must not be more than a 3-story structure.

c) All Districts: One level dwelling units shall have at least one handicapped accessible full bathroom, accessible doorways, and unit entrances and exits. Two level dwelling units shall have a first-floor master bedroom with at least one handicapped accessible full bathroom, accessible first-floor doorways, and unit entrances and exits.

c. Design Standards

The following standards will be reviewed in accordance with the Town of Brookline site plan regulations and/or design guidelines:

e1. Building Design

Architectural renderings of a typical unit, the community center and all accessory buildings shall be provided to the Planning Board for evaluation in accordance with the site plan review regulations and design guidelines to ensure that the proposed development is appropriate in scale and arrangement in relation to the underlying district, the prominence of the site, viewsheds, adjacent land uses and the surrounding neighborhood.

d2. Landscape Plan

A landscaping plan describing the number, species and location of all plantings within the site perimeter buffer and the development itself shall be submitted for the Planning Board's review. No invasive species may be used as planting materials.

e 3. Parking

There shall be a minimum of one (1) *covered* off-street parking space per dwelling unit. Where deemed to enhance the appearance, design and functionality of the development, shared driveways for up to four (4) dwelling units are acceptable.

f 4. Pedestrian Linkage and Circulation

The use of interconnecting walkways, trails and natural walking paths shall be an integral part of all Housing for Older Persons developments. These pedestrian amenities shall be designed to facilitate access between housing units, the Community Center, active recreation areas, open space areas and public trails, ways that may exist outside of the development, and provide access to stores/businesses when an HOP development is part of a commercial/retail development. Primary (paved) walkways in proximity to housing units and the Community Center shall meet American with Disabilities (ADA) requirements. Natural walking and hiking trails are exempt from this requirement.

g 5. Lighting

All roads, primary walkways and access to buildings shall be adequately lighted. ~~The use of "full cut-off" lighting is required.~~ Every effort shall be made to prevent light trespass, nuisance glare and over illumination due to excess wattage or inappropriate light fixtures. A lighting plan shall be submitted for the Planning Board's review, which shall be consistent with the standards found in the current lighting ordinance and site plan regulations. Lighting of common and public areas shall be independently controlled from that for the residential units.

2204.00 *Community Center*

~~2204.01~~ Community Center requirements. Each Housing for Older Persons development must provide a Community Center intended to serve as the locus of community life and activities for the residents. Whenever possible, the Community Center shall be centrally located in relation to the housing units. The Community Center must be a minimum of one thousand (1,000) square feet in size and ~~must~~ include *facilities such as* an activities/social room, ~~as well as~~ a kitchen, laundry room and bathroom facilities. The main entrance to the community center must be handicapped accessible. The community center requires one parking space to be provided per 200 sq.ft. of interior heated space. ~~At least two h-Handicapped parking spaces must be provided in accordance with Americans with Disabilities (ADA) requirements. adjacent to the handicapped accessible main entrance.~~

2205.00 *Safety Considerations*

~~2205.01~~ a. Unit Identification

Each dwelling unit identification shall be subject to final approval from the Brookline Emergency Management Director.

~~2205.02~~ b. Common Driveway Identification

All common driveways must be identified with signage and markers per the requirements of section 1806.00, Common Driveways, of the Brookline Zoning

Ordinance; and section 7.4, Common Driveways, of the Brookline Driveway Regulations.

~~2206.00~~ ~~*Exemptions*~~

~~Housing for Older Persons developments shall be exempt from the Brookline Growth Management Ordinance, due to the minimal impacts on Town services associated with this type of development.~~

~~2206~~7.00 *Compliance*

It is the responsibility of applicants to certify at the time of an application before the Planning Board that a development will comply with all applicable rules and regulations established by the New Hampshire Human Rights Commission, for age discrimination in housing, including, if required by the Human Rights Commission, that every development shall provide significant facilities and services specifically designed to meet the physical and social needs of older persons, or if the provision of such facilities and services is not practicable, that such housing is necessary to provide important housing opportunities for older persons, as set forth in NH Administrative Rules Hum 302.03, as the same may from time to time be amended. Furthermore, while the Planning Board will not define what constitutes significant facilities and services, information that may be required by the Human Rights Commission in evaluating an application shall be submitted to the Planning Board, including a description of applicable provisions of the Human Rights Commission administrative rules and regulations, and whether there are requests for exemptions.

In the event the foregoing 55 year old age restriction is determined to be in violation of the laws of the State of New Hampshire, then in order to qualify as Housing For Older Persons, the development must contain an age restriction that complies with New Hampshire RSA 354-A:15, and as the same may from time to time be amended.

Every Older Persons development shall certify annually their full compliance with the age requirements set forth in this section and the method for determining compliance shall be incorporated in the Association Documents, and approved by Town Counsel. A notarized legal copy of the annual age certification shall be provided to the Towns designated enforcement body (Selectboard/Code Enforcement Officer) and to the Planning Board, to verify compliance.

~~2207~~8.00 *Enforcement, Conflict and Severability*

Enforcement, conflict and severability shall be in accordance with Sections 2400.00, ENFORCEMENT, 2800.00, CONFLICT and SEVERABILITY of the Brookline zoning ordinance. Additional enforcement action under applicable local, state and federal law shall insure full compliance with the purpose and intent and specific requirements of the Housing for Older Persons ordinance and Brookline's Land Use Laws.