



## BROOKLINE PLANNING BOARD

This Voter's Guide has been prepared to give voters an opportunity to study the proposed changes to the Zoning and Land Use Ordinance and learn some of the information that led to these proposed changes.

There are eight proposed Amendments, most are primarily housekeeping, but others are more complex.

- Amendment No. 1 – Section 200 – Definitions
- Amendment No. 2 – Section 300 – General Provisions
- Amendment No. 3 – Section 400 – Districts
- Amendment No. 4 – Section 620 – Workforce Housing Ordinance
- Amendment No. 5 – Section 800 – Nonconforming Uses, Structures, and Lots
- Amendment No. 6 – Section 1400 – Growth Management Ordinance
- Amendment No. 7 – Section 1500 – Open Space Development
- Amendment No. 8 – Section 2200 – Housing for Older Persons

This summary is not intended to substitute for a careful reading of the proposed amendments, which are available from the Brookline Town website or at Town Hall. The Town will not be responsible for any inconsistency between this description and the actual text.

Proposed changes are noted in two ways. Words to be deleted are crossed out like this: ~~Proposed deleted items~~. Words to be added are in bold like this: **Proposed changes**.

Still have questions? Ask Michele Decoteau, Town Planner – (603) 673-8855 x 215 or [MDecoteau@BrooklineNH.us](mailto:MDecoteau@BrooklineNH.us).

# Amendment No. 1

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## Section 200

### 200.00 *Definitions*

*Delete the definition of Elderly. The Ordinance that used the term “Elderly” was removed years ago.*

~~*Elderly.* For the purposes of this Ordinance shall mean that portion of the population 65 years and older.~~

*The definitions below appear later in the Ordinance, so it was decided to move them to the beginning of the Ordinance.*

1201.06 Development: Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operation or storage of equipment or materials.

Nonconforming Use. ~~A non-conforming use is~~ The use of any building or land lawfully occupied at the time of the passage of this **Ordinance, or amendment thereto**, which does not conform to the regulations of the district in which it is located.

1201.26 Regulatory Floodway. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot at any point. These areas are designated as floodways on the Flood Boundary and Floodway Maps.

*The definition of **Junkyard** is already in Section 200. Delete the definition of Junkyard in Section 1302.07 and make the spelling consistent throughout the Ordinance. “Junk yard” and “Junkyard” have the same definition and are used in different locations in the Ordinance with the first location being Section 300. This change will make the definitions the same and fix the spelling.*

Junkyard: Any business and any place of storage or deposit, whether in connection with another business or not, which has stored or deposited 2 or more unregistered motor vehicles which are no longer intended or in condition for legal use on the public highways, or used parts of motor vehicles or old iron, metal, glass, paper, cordage, or other waste, or discarded or secondhand material which has been a part, or intended to be a part, of any motor vehicle, the sum of which parts or material shall be equal to 2 or more motor vehicles. Junkyard shall also include any place of business or storage or deposit of motor vehicles purchased for the purpose of dismantling the vehicles for parts or for use of the metal for scrap and where it is intended to burn material which are parts of a motor vehicle or cut up the parts thereof. This definition includes garbage dumps and sanitary landfills. This definition does not include any motor vehicle dealers registered with the director of motor vehicles under RSA 261:104 and controlled under RSA 236:126.

## Amendment No. 2

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### Section 300

#### Reasons for the proposed changes

*First, the purpose of these proposed changes is to use the words "Transfer Station" instead of "Town Dump."*

*Second, proposed changes make it clear that a state approved designed, installed, and inspected septic system is required for all dwellings.*

*Finally, the proposed amendment will make clear that if a Notice of Violation or Cease and Desist Order has been issued, it must be resolved before any additional permits are issued for that property. This will assist in keeping the focus on resolving problems before new projects are started.*

#### **300.00 GENERAL PROVISIONS**

301.00 No junk yard or place for the storage of discarded machinery, vehicles, glass, paper, cordage, garbage, refuse, or other waste or discarded materials shall be maintained in the Town, exclusive of the area known as the ~~Town Dump~~ Transfer Station.

302.00 No owner or occupant of the land shall permit fire or other ruins to be left, but shall remove same to ground level within one year.

#### 303.00 Sanitary Protection

303.01 No waste waters or sewage shall be permitted to run free into a public water body or be discharged in any way that may be offensive or detrimental to health.

303.02 All dwellings and sanitary systems ~~should~~ **shall** be constructed and maintained in accordance with **this Ordinance, the Land Use Laws and all applicable laws including, without limitation, RSA 485-A "Water Pollution and Waste Disposal;" The New Hampshire Code of Administrative Rules Env-Wq 1000 "Subdivisions: Individual Sewage Disposal Systems" and in addition,** standards set and enforced by the New Hampshire Water Supply and Pollution Control Commission.

304.00 Within the Regulatory Floodway, any development or encroachment (including fill) which would result in any increase in flood levels during the base flood discharge is prohibited.

305.00 No subsurface storage of petroleum or related products (including gasoline) and the subsurface transmission of petroleum or related products through pipelines shall be allowed within Town, with the following exceptions: 1) Propane or liquefied natural gas; 2) Storage tanks not in excess of 1,100 gallons. Storage tanks in excess of 1,100 gallons must comply with the New Hampshire Water Supply and Pollution Control Division's Code of Administrative Rules Part Ws 411, Control of Nonresidential Underground Storage and Handling of Oil and Petroleum Liquids.

306.00 For the purpose of this part, "development" is defined to mean "any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations."

307.00 ***Building Permits*** – The State of New Hampshire Building Code pursuant to RSA 155-A including adopted Appendix Chapters and amendments, shall govern and regulate the construction, alteration, movement, enlargement, replacement, repair, equipment, location, removal and demolition of all dwelling units and all commercial and industrial buildings in the Town of Brookline, said Codes also provide for the issuance of permits and collection of fees. Accessory Buildings of 100 square feet or less shall not require a building permit but shall be required to meet all setback requirements.

308.00 **When a Notice of Violation or a Cease and Desist Order has been, or is to be issued, on a property, no new permits or occupancy certificates will be issued until the Notice of Violation or Cease and Desist Order has been resolved and rescinded in writing.**

# Amendment No. 3

## Section 400

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### Reasons for the proposed changes

*The amendment places the listing of permitted uses in both Districts in Section 400 and removes them from being repeated in each District's list of permitted uses. Multiple uses are permitted everywhere in Brookline, including schools, municipal buildings, and any house of worship and these uses are repeated in each district. This eliminates the repetition.*

### 400.00 DISTRICTS

For the purpose of this Ordinance the entire Town of Brookline shall be divided into two districts which shall be called:

- A. Industrial-Commercial District
- B. Residential-Agricultural District

These two districts may also include areas designated Regulatory Floodway as delineated on the Flood Insurance Maps of the Town of Brookline dated May 19, 1987, as prepared by the Federal Emergency Management Agency - Federal Insurance Administration, or as amended.

Other overlay zones include the Wetlands Conservation District and the Aquifer Protection District.

### 401.00 Uses Permitted

**The following Uses are permitted in both districts. Uses permitted may require additional review. Additional requirements may be required if the Use is in an overlay district.**

- a. Excavations
- b. Farming & Forestry
- c. Housing for Older Persons
- d. Farmstands
- e. Houses of Worship, ~~Churches and~~ associated parsonages, convents
- f. Municipal Facilities and Buildings
- g. Schools, nurseries, day care centers
- h. Public, private, non-profit recreational facilities, fraternal orders, membership clubs

## Amendment No. 4

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### Section 620

#### ***Reasons for proposed changes***

*The changes proposed let developers know that a Workforce Housing development can be proposed as a site plan or as a subdivision plan. A site plan is a single lot that has many dwellings such as condominiums or apartments. A subdivision plan is a single lot that is divided into smaller lots.*

*The Section currently titled “The minimum building setbacks shall be as follows” will be changed to “Setbacks and Unit Separation.” Two sections were added to explain how to measure setbacks and the distance between unit based on the number of stories in the building.*

*Text was added to this section to clarify how to calculate the distance between buildings and means that if you have a condominium or apartment type development, there is guidance on how far apart the buildings should be based on number of stories.*

*Buffers are the areas between uses and commonly are made up of trees and shrubs. The amendment proposes standardized ways of measuring buffers.*

### **620.00 WORKFORCE HOUSING ~~ORDINANCE~~ DEVELOPMENT**

#### ***621.00 Purpose***

The purpose of this Ordinance is to provide an option for including workforce housing as **an Innovative Land Use Control** ~~a permitted use~~ in the Residential-Agricultural District, consistent with the requirements of NH RSA 674:58-61.

The Ordinance is intended to:

1. Maintain the Town’s: water supply, ability to provide high-quality education and school services, environment, traffic safety, and fire and life safety by guiding the development of Workforce Housing;
2. Address the Town’s need to provide its fair share of the current and reasonably foreseeable regional need for workforce housing as documented in the Nashua Regional Planning Commission’s most recent Needs Assessment; and
3. Meet the goal of providing a diverse supply of safe, affordable, and workforce housing opportunities as set forth in the Town’s Master Plan.

#### ***622.00 Authority***

This section is adopted under the authority of RSA 674:21, Innovative Land Use Controls, and is intended as an “Inclusionary Zoning” provision as defined in RSA 674:21(I)(k) and also intended to comply with NH RSA 674:58 – 61, inclusive.

#### ***623.00 Definitions***

Terms in sections 620.00 through 6365.00 shall have these definitions.

- a. Affordable: means housing with combined rental and utility costs or combined mortgage loan debt services, property taxes, and required insurance that do not exceed 30 percent of a household's gross annual income. Definition from RSA 674:58, as amended.
- b. Area Median Income (AMI): means the median income of the greater region, the HUD Fair Market Rent Area to Brookline's, as established and updated annually by the US Department of Housing and Urban Development. Income considers both wage income and assets.
- c. 3- or 4-family Dwelling: means a building or structure containing not less than three (3) and not more than four (4) dwelling units, each designed for occupancy by an individual household.
- d. Market Rate Housing: means a single family dwelling, two dwelling unit dwelling, 3- or 4-family dwelling or multi-family dwelling that does not meet the definition of Affordable, Workforce housing - Renter occupied or Workforce Housing - Owner occupied under section 623.00 of this ordinance.
- e. Mixed Development: means a single housing development that contains a combination of Workforce Housing and Market Rate Housing.
- f. Multi-family Dwelling: means a building or structure containing not less than five (5) and not more than five (5) dwelling units, each designed for occupancy by an individual household. Definition from RSA 674:58, as amended.
- g. Reasonable and Realistic Opportunities for the Development of Workforce Housing: means opportunities to develop economically viable workforce housing within the framework of Brookline's municipal ordinances and regulations adopted pursuant to this chapter and consistent with RSA 672:1, III-e.
- h. Single-family Dwelling: means a building or structure containing not less than one (1) and not more than one (1) dwelling unit, each designed for occupancy by an individual household.
- i. Workforce Housing: means a single-family dwelling, two dwelling unit dwelling, 3- or 4-family dwelling or multi-family dwelling that does meet the definition of Affordable, Workforce housing - Renter occupied or Workforce Housing - Owner occupied, under section 623.00 of this Ordinance. From RSA 674:58, as amended.
- j. Workforce Housing - Renter occupied: means rental housing which is affordable to a household with an income of no more than 60 percent of the median income for a 3-person household for the metropolitan area or county in which the housing is located as published annually by the US Department of Housing and Urban Development. Definition from RSA 674:58, as amended.
- k. Workforce Housing - Owner occupied: means housing which is intended for sale and which is affordable to a household with an income of no more than 100 percent of the median income for a 4-person household for the metropolitan area in which the housing is located as published annually by the US Department of Housing and Urban Development. Brookline is located within the greater Nashua metropolitan area. Definition from RSA 674:58, as amended.

### **624.00 Applicability**

1. Uses Permitted
  - a. Single family dwelling, two dwelling unit dwelling, 3- or 4- family dwelling or a multi- family dwelling may qualify as workforce housing.
  - b. A workforce housing development or a mixed development that includes a 3- or 4-family dwelling or multi-family dwelling shall only be allowed along the NH Route 13 corridor, defined as land in the Residential / Agricultural District within 500 feet of the NH Route 13 Right of Way on both sides of the highway.
  - c. Outside the NH Route 13 corridor, as defined above, a workforce housing development or a mixed development that includes only single-family and two dwelling unit dwellings are permitted in the Residential/Agricultural District.

### **625.00 Procedural Requirements**

1. If the Town's existing housing stock is sufficient to accommodate its Fair Share of the current and reasonably foreseeable regional need for workforce housing as documented in the Nashua Regional Planning Commission's most recent Needs Assessment; the Town shall be deemed to be in compliance with RSA 672:1, III-e and RSA 674:59 in accordance with the provisions of RSA 674:59 III and no development intended to qualify as workforce housing or mixed development under this Ordinance shall be approved or permitted by the Planning Board, or the Town.
2. If the Town's existing housing stock is not sufficient to accommodate its fair share of the current and reasonably foreseeable regional need for workforce housing as documented in the Nashua Regional Planning Commission's most recent Needs Assessment; applications for workforce housing, or a mixed development, may be considered. However, no development intended to qualify as workforce housing or a mixed development under this ordinance shall be permitted or approved by the Planning Board or the Town if, when combined with the existing housing stock, the development would exceed the Town's fair share of the current and reasonably foreseeable regional need for workforce housing as documented in the Nashua Regional Planning Commission's most recent Needs Assessment.
3. The determination of the Town's ability to meet its fair share of the current and reasonably foreseeable regional need for workforce housing; as documented in the Nashua Regional Planning Commission's most recent Needs Assessment; shall, at a minimum, be determined every year by the Brookline Planning Board. The determination should be completed no later than November 30. A written report including the determination by the Planning Board shall be completed in time to be included in the next Town Annual Report. Additionally, the Planning Board may, at their discretion, choose to review the reasonably foreseeable regional need for workforce housing at any time.

If the Board determines there is a need for additional workforce housing to meet the Town's fair share of the current and documented and reasonably foreseeable regional need for workforce housing as documented in the Nashua Regional Planning Commission's most recent Needs Assessment; the Planning Board may immediately begin considering applications for developments intended to qualify as workforce housing or for a mixed development in accordance with paragraph 625.00 2., above.



If the Planning Board determines the Town meets the Town's fair share of the current and reasonably foreseeable regional need for workforce housing as documented in the Nashua Regional Planning Commission's most recent Needs Assessment paragraph 625.00 1., above, shall apply.

4. Any applicant who applies to the Planning Board for approval of a development intended to qualify as workforce housing or a mixed development under this section shall:
  - a. Follow the Town's normal application procedure for a subdivision *or site plan* approval as defined in the Town's Subdivision *and Site Plan* Regulations; and
  - b. Provide a written statement of such intent as part of the application as per RSA 674:60; and
  - c. Follow the requirements set forth herein; including but not limited to, water supply, environmental protection, traffic safety, and fire and life safety and any other such requirements the Planning Board deems necessary for subdivision acceptance.
5. At the time of application, the applicant or developer shall identify the organization responsible for compliance with Section 630.00 of this ordinance and provide all legal documents outlining the agreement.
6. At the time of application, the applicant or developer shall prepare a management plan, acceptable to the Planning Board that demonstrates compliance with this ordinance.

#### **626.00 General Requirements of Workforce Housing Units**

1. **Developments** ~~Dwellings~~ qualifying as workforce housing shall restrict fifty percent (50%) of the dwellings units to have no more than two bedrooms or the development shall not constitute workforce housing for the purposes of this ordinance.
2. Dwelling units qualifying as workforce housing shall be comparable in exterior appearance with market rate housing dwelling units of similar type in the proposed development. For a proposed mixed development no more than 50% of the dwelling units shall be market rate housing. The workforce housing dwelling units shall be interspersed throughout the overall development and not concentrated in a separate area of the development.
3. The minimum parcel size for a workforce housing development shall be at least ten (~~ten~~**10**) contiguous acres excluding wetlands, water bodies, and land contained in the 100-year floodplain.
4. The ~~minimum~~ **maximum lot size density** for market rate housing dwellings shall comply with the standards of the Brookline Zoning Ordinance. The ~~minimum~~ **maximum lot size density** for workforce housing dwellings shall be as follows: **one a single-family-dwelling per one (1) contiguous acre, one two-dwelling unit dwelling per one and one half (1.5) contiguous acres, one a 3-, 4-family or multifamily dwelling per three (3) contiguous acres. Density shall be measured excluding wetlands, water bodies and land contained in the 100-year floodplain.**
5. The minimum required frontage for market rate housing dwellings shall comply with the standards of the Town of Brookline Zoning Ordinance. The minimum required frontage for

workforce housing dwellings **on individual lots** shall be as follows: for a **one** single-family dwelling shall be one hundred (100) feet; for a two dwelling unit dwelling shall be one hundred fifty (155) feet; for a 3- or 4-family dwelling shall be two hundred forty (240) feet, for a multi-family dwelling shall be two hundred forty (240) feet.

6. No backlot development shall be allowed.
7. Developments that include a 3- or 4-family dwelling or multifamily dwelling shall have a vegetated buffer of not less than fifty (50) feet wide or a greater value as deemed necessary or appropriate by the Planning Board on all boundaries of the original parcel except for access to connecting roads. Developments including only single family dwellings or two dwelling unit dwellings shall have a vegetated buffer appropriate for the location and scale of the project.
8. **Setbacks and unit separation:** ~~The minimum building setbacks shall be as follows~~
  - a. *Front.* Each structure shall be setback at least 30 feet from the front lot line.
  - b. *Side and Rear.* Each structure shall be at least 15 feet from side and rear lot lines. In the case of a corner lot, the side distance shall be increased to 30 feet on the side bordering the frontage.
  - c. **If a vegetative buffer is required by 626.07, all setbacks shall be measured from the edge of the buffer instead of the lot line.**
  - d. **One (1) story buildings must be separated by at least twenty-five (25) feet. Two or more story buildings must be separated by at least thirty-five (35) feet.**

#### **627.00 Reasonable Standards**

In accordance with RSA 674:59 IV, the approval of a development of workforce housing or a mixed development under this ordinance may have reasonable standards including, but not limited to standards for, Environmental Protection, Water Supply, Sanitary Disposal, Traffic Safety, Fire and Life Safety Protection as deemed necessary or appropriate by the Planning Board.

#### **628.00 Road, Way, Access to Development**

1. Access to development containing a 3- or 4-family dwelling or a multi-family dwelling shall be from the NH Route 13 corridor as described in Section 624.00.
2. Roads must be constructed to standards outlined in the Subdivision Regulations. The road, all culverts, drains, swales, stormwater management structures or BMPs, signage, etc. shall be installed, managed and maintained by the management company.
3. Unless deemed unnecessary by the Planning Board, access to a development shall be via a through roadway connecting existing roads and neighborhoods in order to provide a safe and rapid access to the development / dwelling units for all emergency vehicles.

#### **629.00 Affordability**

1. Affordability Compliance

- a. All the workforce housing dwelling units approved under this provision must meet the affordability requirements as defined in Affordable, Workforce Housing - Renter occupied or Workforce Housing - Owner occupied under Section 623.00 of this ordinance.
2. Assurance of continued affordability
- a. Affordable housing, Workforce housing - owner occupied and Workforce housing - renter occupied units must retain the development criteria including but not limited to the conditions of approval and the affordability standards herein, in perpetuity, with a renewable clause through a suitable deed restriction, easement and/or mortgage deed instrument deemed acceptable to the Brookline Planning Board and as monitored through reports provided to the Brookline Planning Board by the designated third-party agent prior to the time of unit sale or resale.

**630.00 Administration**

A third-party non-profit or for-profit organization or property management entity shall be responsible for income verification and ongoing affordability compliance. The designated organization or company shall provide appropriate reports to the Brookline Planning Board regarding ongoing affordability compliance annually and in time for printing in the Annual Town Report.

**631.00 Conditions of Approval**

In accordance with RSA 674:59 IV, the approval of a development of workforce housing or a mixed development under this ordinance may have conditions of approval including, but not limited to conditions for, Environmental Protection, Water Supply, Sanitary Disposal, Traffic Safety, Fire and Life Safety Protection as deemed necessary or appropriate by the Planning Board.

**632.00 Conflict**

If any provision of this Section is in conflict with the provisions of any other provisions of this ordinance, the more restrictive provision shall apply, except for any provision relating to reductions in standards for lot size or frontage in which case the provisions of this Section shall apply.

**633.00 Appeals**

If an applicant wishes to appeal a decision made by the Planning Board, they may do so in accordance with RSA 674:61.

**634.00 Severability**

If any section, provision, portion, clause or phrase of this ordinance shall be declared invalid or unconstitutional, it shall not impair or invalidate any other section, clause, provision, portion or phrase of this ordinance.

**635.00 Effective date**

This ordinance shall be effective immediately after an affirmative vote at Town Meeting.

# Amendment No. 5

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## Section 800

### Reasons for the proposed changes

*The proposed changes clarify this section allows for the lawful continuance of nonconforming uses, lots, and structures.*

*The proposed amendment clarifies that all dwellings in Brookline must have a state approved septic system.*

*The proposed changes eliminate the ambiguity regarding the application of setbacks to nonconforming buildings or adding buildings on nonconforming lots. Setbacks still apply to nonconforming lots and remain subject to relief from the Zoning Board of Adjustment.*

*The proposed changes remove the diagram called “**Expansions of structures with nonconforming setbacks**” and replaces it with a more understandable text. The proposed changes also separate sections so each has a single topic and removes overlap. References to mergers of nonconforming lots was removed.*

### **800.00 NONCONFORMING USES, STRUCTURES AND LOTS, AND STRUCTURES**

The purpose of this section is to allow for the lawful continuance of nonconforming uses, structures and lots, in accordance with the criteria outlined below and to allow for a reasonable level of alteration, expansion or change to occur by special exception when it can be demonstrated that the proposed alteration, expansion or change will not change the nature of the use, unduly impact the neighborhood or provide inadequate subsurface disposal of waste.

#### **800.01 Nonconforming Uses**

- a. Any nonconforming use may continue in its present use, however, it shall not be changed to another nonconforming use.
- b. Whenever a nonconforming use has been intentionally discontinued or abandoned for a period of one year the use shall not be reestablished.
- c. ~~Except for proposal “B” (see diagram in section 800.03),~~ Any alteration, expansion or change of a nonconforming use or structure shall only be permitted by special exception by the Zoning Board of Adjustment if it finds that:
  1. The proposed alteration, expansion or change will not change the nature and purpose of the ~~original~~ **present** use; and
  2. The proposed alteration, expansion or change would involve no substantially different effect on the neighborhood; ~~and~~
  3. ~~Any increase in heated living space which, in the judgment of the Zoning Board of Adjustment, is capable of increasing the number of bedrooms for a noneonforming dwelling or lot, may require that the septic system be approved by the NH Division of Water Supply and Pollution Control and the Town of Brookline in accordance with the provisions of RSA 485 A:38 and the Town’s regulations for the number of bedrooms currently in the home or proposed for the home.~~

#### **800.02 Nonconforming Lots**

- a. A nonconforming lot that has been developed with a structure may continue in its present use; however, any alteration or expansion shall comply with Sections 800.01e and **800.03**.

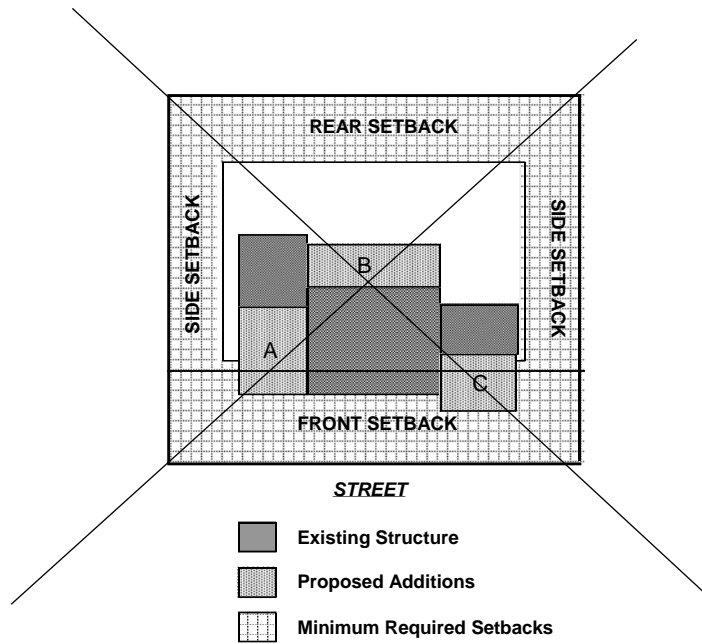
- b. A nonconforming lot which is recorded and taxed as a lot of record at the time of passage of this Ordinance **and, pursuant to Zoning Ordinance Section 900**, may be used for any permitted use in the district in which it is located. ~~Every attempt shall be made to conform to the lot size/setback requirements of the zone.~~
- ~~c. Where two (2) or more nonconforming, undersized, lots abut and are under common ownership, prior to the issuance of a building permit the parcels shall be merged into one lot and shall comply with the zoning requirements to the best of their ability. Every attempt shall be made to conform to the lot size/setback requirements of the zone.~~
- c. ~~Any~~ New septic systems or any changes to existing septic systems ~~on nonconforming lots~~ must comply with the ~~all local and state requirements for septic systems to the maximum extent possible.~~ **NH Division of Water Supply and Pollution Control and the Town of Brookline in accordance with the provisions of RSA 485-A:38 and the Town of Brookline's Zoning Ordinance Section 303.02.**

***800.03 Nonconforming Structures***

- a. Any lawful nonconforming structure existing at the time of adoption of this Ordinance, may be occupied, operated and maintained.; ~~however, any alteration, expansion or change of the structure that further aggravates a front, side or rear setback shall only be permitted by special exception in accordance with Section 800.01 c and the diagram below.~~
- b. **Any alteration, expansion, or change of a structure which already extends into the front, side, or rear setbacks required for the zone shall be permitted by special exception by the Zoning Board of Adjustment if it finds that:**
  - 1. **The proposed alteration, expansion, or change will not change the nature and purpose of the present use; and**
  - 2. **The proposed alteration, expansion, or change would involve no substantially different effect on the neighborhood; and**
  - 3. **The proposed alteration, expansion, or change would extend no farther into the setback than that portion of the structure which already resides in that setback.**
- c. Any development which would create a new extension into a setback shall require a variance from the Zoning Board of Adjustment.
- d. Accessory structures which can meet the setback requirements do not require a special exception or variance.
- e. Any increase in the number of bedrooms requires a septic system that complies with the NH Division of Water Supply and Pollution Control and the Town of Brookline in accordance with the provisions of RSA 485-A:38 and the Town of Brookline's Zoning Ordinance Section 303.02.

~~**Expansions of structures with nonconforming setbacks**~~

~~(Not drawn to scale)~~



**Explanation:** Proposal “A” requires a special exception;

Proposal “B” requires no action by the Board of Adjustment;

Proposal “C” requires a grant of variance by the Board of Adjustment, provided, however, that in addition to meeting the legal standard for a variance, the proposal also meets the general criteria for a special exception found in this Ordinance;

Accessory structures that can meet the setbacks do not require a special exception.

# Amendment No. 6

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## Section 1400

### Reasons for the proposed changes

*In Brookline, Housing for Older Persons Development was exempted from the Growth Management Ordinance and the Planning Board proposes to remove this exemption. The State statutes are changing this summer to allow Workforce Housing to utilize any density or procedural bonuses provided to Housing for Older Persons Developments. It was important to review both Zoning Ordinances to make sure if Workforce Housing developments used the Housing for Older Persons Ordinance bonuses, it would make sense.*

*In addition to removing the Housing for Older Persons exemption, the timing of the distribution building permits was clarified.*

*Also, to align with the International Building Code, the time limit on building permits was removed.*

### **1400.00 GROWTH MANAGEMENT ORDINANCE**

#### **1401.00 Purpose**

Based on the Master Plan, which assesses, and balances community development needs and considers regional development needs, the following Ordinance is deemed necessary to manage the rate of growth in the Town of Brookline for the following purposes:

1. To allow the Town the opportunity to evaluate, develop and implement a plan for increases in school facilities and services in an efficient manner to address critical issues, including but limited to:
  - a. Growing enrollment (2017 - 2021 District Enrollment Increased 14.2%)
  - b. Providing adequate class space for Special Needs students within the District
  - c. Addressing the overall lack of space for educational needs
2. To allow the Town the opportunity to evaluate, develop and implement a plan for increases in Town services in an efficient manner; and
3. To ensure that Brookline does not receive more than its fair share of the regional population growth.
- 4.

#### **1402.00 Authority**

This Ordinance is adopted as a growth management ordinance under RSA 674:22 II which grants the powers to regulate and control the timing of development. Phased development under this ordinance is adopted as an Innovative Zoning Provision as provided for in RSA 674:21 (I)(b).

#### **1403.00 Applicability**

This ordinance shall apply to lots within the Town of Brookline, ~~except for those lots used expressly for and in accordance with RSA 354 A:15 and the Town of Brookline Zoning and Land Use Ordinance, Section 2200, Housing for Older Persons and those lots exempted by RSA 674:39.~~

#### **1404.00 Definitions**

- a. Applicant: The owner of a lot seeking a building permit.

- b. Building Permit: A building permit obtained for the construction of a dwelling unit. This ordinance does not apply to non-residential building permits or permits for expansion or alteration of existing structures that do not result in new dwelling units.
- c. Calendar Year: January 1 to December 31
- d. NRPC Region Average Growth Rate: Nashua Regional Planning Agency population growth rate calculated annually across the following towns: Amherst, Brookline, Hollis, Hudson, Litchfield, Lyndeborough, Mason, Merrimack, Milford, Mont Vernon, Nashua, Pelham, and Wilton.

1405.00 Requirements

1. Any subdivision or site plan involving housing units approved during the effective period of this ordinance shall be a Phased Development.
2. The Planning Board shall consider previously approved subdivisions or site plans involving housing units prior to the approval of any new application for a subdivision or site plan involving housing units to ensure the Planning Board does not approve more new building lots than there are available permits for any calendar year.

(Example 1) The Planning Board could approve 10 subdivisions of “Less than 10 lots” in one year if the formula supports 10 permits per year, but no further subdivisions or site plans involving housing units could be approved that year because no more Building Permits would be available. Further, in subsequent years, the Board would have to consider previously approved subdivisions or site plans involving housing units as well as the formula before approving any new subdivisions or site plans involving housing units to ensure that the approved new building lots would not exceed the number of available permits for that year.

(Example 2) The Planning Board could approve 1 subdivision of “40+ lots” and 5 subdivisions of “Less than 10 lots” in one year if the formula supports 10 permits per year, but no further subdivisions or site plans involving housing units could be approved that year because no more Building Permits would be available. Further, in subsequent years, the Board would have to consider previously approved subdivisions or site plans involving housing units as well as the formula before approving any new subdivisions or site plans involving housing units to ensure that the approved new building lots would not exceed the number of available permits for that year.

3. Building permits shall be **distributed twice per year, half starting on the first business day of January and the remaining permits starting on the first business day in June.** ~~April and October. Beginning on April 15, 50% of the total available permits may be issued for that calendar year. Beginning on October 15 the remaining building permits for that calendar year may be issued.~~ Every applicant may be issued one (1) building permit until the total available number of permits for that period have been issued. ~~Applications for building permits issued beginning on April 15 shall be received no later than March 15. Applications for building permits issued beginning on October 15 shall be received no later than September 15. If, after the issuance period there are any remaining building permits, the Town may continue to accept building permit applications. The permits may continue to be issued one per applicant until all permits for that period have been issued.~~
4. The number of Building Permits that may be issued by the Town of Brookline in any calendar year shall be limited to the following formula:



(Current Population \* NRPC Region Average Growth Rate) / 10 (to determine the average annual growth rate from the 10-year average) / (Average Number of People per house) = Number of Building Permits per calendar year. If the formula does not result in a whole number, the number shall be rounded up.

For example, according to the 2020 U.S. Census Bureau Data the average growth rate for the Nashua Regional Planning Commission (NRPC) region from 2010 - 2020 was 5.7% and the average number of people per household in Brookline was 3.08.

The calculation for 2022 is: 2020 Population 5639 \* 0.057 = 321.42/10 = 32.14/3.08 = 10.44, rounded up to 11. The number of Building Permits for 2022 is 10.

The calculation of building permits for subsequent years shall be based on the formula and shall be conducted in accordance with Section 1407.00

Reaching substantial completion shall vest, in the approved subdivision plat, the rights defined in RSA 674:39, 5-year Exemption. Lots that are part of an approved subdivision with vested rights, may apply for a building permit at any point in the calendar year. These building permits shall be subtracted from the total available number of permits for that calendar year.

- ~~5. A building permit expires and becomes invalid if construction, which is deemed to be installation of footings and foundation, has not started within six (6) months from the date of issuance.~~
- 6. Building permits may be transferred between lots owned by the same applicant, prior to the pouring of a footing or foundation with the approval of the Building Inspector.
- 7.

**1406.00      *Phased Development***

The Planning Board shall require the phasing of pending and future subdivision and open space development proposals as provided in New Hampshire RSA 674:21.

Providing for the phasing of all pending and future subdivision approvals serves the Master Plan directed goal of allowing the Town sufficient time to plan for increases in Town and School services in an efficient manner.

The purpose of phasing developments is to minimize a strain on municipal resources caused by the sudden introduction of a substantial number of new dwelling units and to allow the Town to plan and absorb the growth over a longer period of time so as to avoid severe impact on Town and School services.

The intent of this section is to ensure that each developer will receive a number of permits appropriate to the size of the subdivision. The intent of this section is also to ensure that each subdivision receives a building permit, not for a subdivider to create small subdivisions or to sell off individual lots circumventing the purpose of this Ordinance.

# of new building lots	Year One	Year Two	Year Three	Year Four	Year Five	Year Six	Year Seven	Year Eight	Year Nine	Year Ten	Year Eleven +
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Less than 10	1	1	1	1	1	1	1	1	1		
10 - 19	2	2	2	2	2	2	2	2	2	1	
20 - 29	3	3	3	3	3	3	3	3	3	2	
30 - 39	4	4	4	4	4	4	4	4	4	3	
40+	5	5	5	5	5	5	5	5	5	5	5

Notes: This table shows the number of building permits available for various size subdivisions for the years following Brookline Planning Board approval. Year One denotes the year in which the subdivision was approved by the Brookline Planning Board. \* If there is no house on the original pre-existing undeveloped buildable lot (parent parcel), then an additional building permit is available the first year. The example provided for a subdivision of “Less than 10” lots is for a 9-lot subdivision. The other above examples provided are for the maximum size subdivision in each category (19, 29 and 39 lots, respectively) so as to illustrate the full build-out period for subdivisions in each size range. A 55-lot subdivision is illustrated for the “40+” size category. If more than 55 lots are involved, either a maximum of five or the remaining number of permits, whichever is less, are available in subsequent years until the total number of permits available in the subdivision is issued.

- a. Each subdivision may receive their building permit allocation in accordance with Section 1405.3.
- b. A subdivision may bank and carry over a maximum of one year’s building permit allocations to the next calendar year. Any allocation that is carried over from the first year and not used by the end of the second year is postponed to the end of the subdivision buildout.

The following examples are meant to help understand the intent of this section. The ability to hold permits and carry them over one (1) year may make capital expenditures, such as road construction, more affordable. It is not intended to allow additional permits to be issued, or more than the maximum of two (2) year’s permits to be issued in any calendar year. The carry over may be exercised multiple times, however, Example 3 demonstrates the risk of miscalculating.

(Example 1) A 29-lot subdivision would be eligible for a maximum of three (3) building permits in a calendar year. If the developer chose to hold these permits until the following calendar year, there would then be a maximum of six (6) building permits available. If the entire six (6) available permits were used, the following calendar year there would only be three (3) permits available. The result of a carry-over can never exceed a total of two (2) year’s available permits, which in this example is six (6) permits.

(Example 2) On a 29-lot subdivision, the developer has carried the maximum number of permits for the first year, three (3), over to the second year. There are now six (6) permits available. The developer only uses four (4) permits in the second year. There are now five (5) permits available in the third year – two (2) carried over from the previous year and three (3) permits available for the calendar year. Any portion of a previous year’s permits may be carried over to the following calendar year up to the maximum permits allowed in a two-year period.

(Example 3) On a 29-lot subdivision, the developer carried over the maximum number of permits for the first year, three (3), over to the second year. There are now six (6) permits available. The developer only uses one (1) permit, leaving five (5) unused permits for the second year. The developer may only carry over three (3) permits to the third year. The maximum number of permits that can be carried over to the following calendar year is three (3). In this example, two (2) permits were deferred to the end of the subdivision buildout period because of a failure to use the permits in earlier years.

***1407.00 Sunset Clause***

This Ordinance expires after one year, unless the following occurs:

An annual review by the Planning Board which shall be conducted no later than November 30. The annual review must be conducted at a public hearing and noticed in accordance with RSA 675:6 and 675:7.

If, after conducting the annual review and public hearing, the Board makes a finding that this Ordinance is both appropriate and necessary to meet the Purpose, Section 1401.00 above, this Ordinance would be effective for another year, at the end of which another annual review, as described above, shall occur.

After conducting the annual review and making a finding that the Ordinance is both appropriate and necessary to meet the Purpose, Section 1401.00 above, the Planning Board shall determine the number of building permits which may be issued for the next calendar year based on the formula in section 1405.00.

***1408.00 Severability***

If any section, provision, portion, clause or phrase of these regulations shall be declared invalid or unconstitutional, it shall not impair or invalidate any other section, clause, provision, portion or phrase of these regulations.

***1409.00 Effective Date***

This Ordinance shall become effective immediately upon affirmative vote at Town Meeting 2022 .

## Amendment No. 6

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### *Section 1500*

#### ***Reasons for the proposed changes***

*This update is being proposed for two reasons.*

*First, this makes it clear that Workforce Housing and Housing for Older Persons Developments cannot be an open space development. These types of developments all have separate requirements and purposes.*

*Second, to determine the number of new lots created from the current or exiting lot, a Yield Plan is created. A Yield Plan is used to determine how many new lots can be created from a current or existing lot. This becomes the maximum number of lots that be in a proposed Open Space Development. The change proposed clarifies the process for producing a Yield Plan by developers.*

#### **1500.00 OPEN SPACE DEVELOPMENT**

Open Space Development is necessary to meet the goals established in this article and in the Brookline Master Plan. Therefore, an Open Space Development plan will be required for all developments of ~~20 acres~~ ~~the minimum tract size~~ or greater. An Open Space Development plan will not be required when in the judgment of the Planning Board topography, wetlands, soils or other considerations prevent the proposal from accomplishing the purposes of this article, or when an Open Space Development is unnecessary to meet the purposes of this Ordinance. All conventional subdivision plan applicants shall submit evidence to the Planning Board, at a public hearing, documenting the constraints that make a conventional subdivision a preferable choice.

#### **1501.00 Purpose**

- a. To promote the conservation of the natural environment, and the development of the community in harmony with the natural features of the land.
- b. To provide for an efficient use of land, streets, and utility systems.
- c. To stimulate alternative approaches to land and community development.
- d. To establish living areas within the Town that provide for a balance of community needs, such community needs as adequate recreation and open space areas, and pedestrian and vehicular safety.
- e. To maintain the rural character of Brookline.
- f. To maintain the current density of Brookline (1 unit per 88,000 square feet).
- g. To promote residential construction on the most appropriate and buildable areas of a tract of land. Zone/Location

#### **1502.01 Zone/Location**

1502.01 The use of an Open Space Development is limited to the Residential-Agricultural District as shown on the Zoning Map.

#### **1503.00 Permitted Uses**

1503.01 All uses allowed in the Residential-Agricultural District are allowed in an Open Space Development **except for Workforce Housing (Section 620) and Housing for Older Persons (Section 2200).**

**1504.00 Open Space**

1504.01 All land not devoted to house lots, roads, and driveways shall be set aside as permanent open space.

1504.02 A minimum of thirty-five (35) percent of the gross tract area shall be set aside as open space for low-impact recreation, agriculture, or conservation uses, intended for the use and enjoyment of the residents of this development and/or the general public. This open space shall be permanently restricted through easement or deed. Though the open space cannot be resubdivided, accessory structures and improvements appropriate for low-impact recreation, agriculture, or conservation uses are allowed subject to Planning Board approval.

1504.03 Not more than 45 percent of the open space shall consist of open water, wetlands and slopes greater than 25 percent.

**1505.0 Dimensional Requirements**

1505.00 Density. The maximum density of an Open Space Development shall be the same as for a conventional development in the Residential-Agricultural District. An Open Space Development shall have no more lots than can be created using conventional developments on the same land.

1505.01 Frontage. 80 feet minimum per lot.

1505.02 Setbacks. 15-foot setback from the front, rear, and side per lot, measured from the property lines.

1505.03 Site Perimeter Buffer. Each development must be situated within a permanently protected undeveloped site perimeter buffer, where no structure shall be built, identified on the site plan, not less than 50 feet wide or a value as deemed necessary by the Planning Board on 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.

1505.04 Lot Size. Each building lot shall have a minimum of 44,000 square feet excluding wetlands, water bodies, and land in the 100-year floodplain. Only one dwelling unit shall be permitted per individual building lot, except as provided in Section 2000.00, Accessory Dwelling Units. A two-family structure shall require two times the minimum land area.

1505.05 Development Tract Size. An Open Space Development tract shall have a minimum of 20 acres.

**1506.00 Open Space Ownership and Management**

1506.01 The open space shall be conveyed to a homeowners association whose membership includes all the owners of lots or units contained in the tract. Where the Planning Board feels that it is in the best interests of the Town, this land may be conveyed to the Town or shall be permanently protected in other suitable ways which would ensure the

continued use of the land for intended purposes and proper maintenance of the land. A pre- conveyance open space conservation easement deed shall be recorded and shall have an easement sunset upon conveyance to the Town or homeowner association.

1506.02 The developer shall be responsible for the formation of the homeowners association of which the developer or owner shall be a member until a majority of the lots of record are sold.

1506.03 The homeowners association shall be structured so as to provide that the membership and obligation of unit purchasers in the homeowners association will be automatic upon the conveyance of title or lease of dwelling units.

1506.04 Open Space Development land which counts towards the minimum open space requirements or towards the minimum lot size cannot be put in current use.

### **1507.00 Procedures**

15.07.01 All Open Space Developments, as is the case with conventional developments, shall go through the subdivision review process and meet the review criteria as outlined in the subdivision regulations. **In addition, the applicant shall comply with the following requirements described below for calculating the base number of dwelling units that may be constructed on the property.**

1507.02 **The number of dwelling units permitted in any Open Space Development shall be equal to or less than the number of dwelling units permitted in a conventional subdivision plan under Brookline's Zoning ordinance (e.g., meets all frontage, setback, buffer, area, and dimensional requirements, etc.), without any Planning Board waivers or Zoning Board of Adjustments variances required.**

1507.03 **A Yield Plan shall be submitted as part of the application for subdivision approval. The Yield Plan must fully comply with the requirements for a conventional subdivision, as described above, to determine the number of allowable buildings and dwelling units permitted. The Yield Plan does not include engineering details but shall provide such minimum information necessary to show the number of buildable lots, general layout of any road network and drainage areas. The Yield Plan is used to support a general discussion with the Planning Board as to maximum density and meeting the objectives of the zoning ordinance and applicable subdivision or site plan regulations.**

1507.04 **Included with the Yield Plan, the applicant shall disclose any proposed waivers and/or variances that will impact the density and design of the proposed Open Space Development if granted, so the Planning Board may make an informed determination as to whether the purpose and objectives have been met.**

### **1508.00 Other Provisions**

1508.01 All Open Space Developments must also meet the requirements listed in other articles of this Zoning Ordinance, except those which are superseded in this article.

## Amendment No. 8

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### Section 2200

#### ***Reasons for proposed changes***

*First, the Ordinance needed a clear definition of Housing for Older Persons Developments.*

*Second, the definitions of Impact Fees and Off-site Improvement Fees was removed. These fees have their own sections in the Ordinance and don't need to be redefined here.*

*Third, in Brookline, the minimum dwelling size is 576 square feet. This proposed change makes all the minimum dwelling sizes in Brookline the same for primary dwellings.*

*Many of the remaining changes are designed to require a Housing for Older Persons Development to be built with Older Persons in mind by requiring accessible first floor bathrooms and primary bedrooms, and covered parking. The Community Center is required to be accessible as well.*

*Finally, with recent changes in State laws, any density bonuses or procedural bonus given to Housing for Older Person must be provided to Workforce Housing. With these changes, no housing development will be exempt from the Growth Management Ordinance.*

#### **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 landuse 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.

~~2102.01a.~~ ***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 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 a one-half (.5) acre *area* of contiguous non-steep slope upland *dedicated to the exclusive use of the unit 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 ~~15~~ **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 ~~and fifty~~ **seventy-six** (~~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 ~~and fifty~~ **seventy-six** (~~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 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 Americans with Disabilities Act (ADA) compliant bathroom, accessible doorways, and unit entrances and exits. Two level dwelling units shall have an ADA compliant first-floor primary bedroom and at least one first floor ADA compliant full bathroom. All first-floor doorways and unit entrances and exits shall be ADA compliant.*

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.

e2. 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 *as described in NH Department of Agriculture rule AGR 3800, or any updates to that rule*, 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.~~

¶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.

§ 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 of heated living space ~~in size and must include an ADA accessible activities/social room and ADA compliant bathroom. The Community Center may also include as well as facilities such as~~ a kitchen, or laundry room, ~~and bathroom facilities.~~ The main entrance to the community center must be ADA compliant ~~handicapped accessible.~~ The community center requires one parking space to be provided per 200 sq.ft. of interior heated space. ~~At least two h~~ Parking spaces must be provided ~~in accordance with ADA dimensions. 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 Town Planning 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.~~

**22067.00 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.

***22078.00 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.