

## **620.00 WORKFORCE HOUSING ORDINANCE**

### ***621.00 Purpose***

The purpose of this Ordinance is to provide an option for including workforce housing as 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 636.00 shall have these definitions and are intended to be consistent with NH RSA 674:58 Definitions.

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.

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.

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.

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.

Mixed Development: means a single housing development that contains a combination of Workforce Housing and Market Rate Housing.

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.

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.

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.

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.

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.

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.

#### ***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 300 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 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 approval as defined in the Town's Subdivision 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. 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.

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3. The minimum parcel size for a workforce housing development shall be at least ten (10) contiguous acres excluding wetlands, water bodies, and land contained in the 100-year floodplain.
4. The minimum lot size for a market rate housing dwelling shall comply with the standards of the Brookline Zoning Ordinance. The minimum lot size for a workforce housing dwelling shall be as follows: a single-family-dwelling shall be one (1) contiguous acre excluding wetlands, water bodies, and land contained in the 100-year floodplain, a two dwelling unit dwelling shall be one and one half (1.5) contiguous acres excluding wetlands, water bodies and land contained in the 100-year floodplain, a 3- or 4-family dwelling shall be three (3) contiguous acres excluding wetlands, water bodies and land contained in the 100-year floodplain, a multi-family dwelling shall be three (3) contiguous acres 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 shall be as follows: for a 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 multi-family dwelling shall have a vegetated buffer of not less than fifty (50) feet 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 dwelling or two dwelling unit dwelling shall have a vegetated buffer appropriate for the location and scale of the project.
8. 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.

### ***627.00 Reasonable Standards***

In accordance with RSA 674:59 IV, a development qualifying as workforce housing or a mixed development under this ordinance shall not be approved unless the development meets the following standards. The Planning Board may request outside review, at the applicant's expense, for any portion of these standards.

1. Environmental Protection
  - a. Documented protection of the Town's environment including but not limited to compliance with all State and Town environmental protection requirements including but not limited to, Wetlands, Aquifers, Stormwater Management, Wildlife and Forestry.
  - b. Documented plan to address impacts to wildlife and forestry displaced by the development.

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2. Water Supply

- a. A hydrogeological study and accompanying report demonstrating the on-site availability of one hundred percent (100%) of all required water supply for the proposed development conducted in accordance with the Town of Brookline Well and Water Ordinance.

3. Sanitary Disposal

- a. A report from a licensed Soil Scientist in the State of New Hampshire, shall be provided to the Planning Board of on-site soil conditions that permit the siting of the appropriate size septic system for the proposed development.

4. Traffic Safety

- a. A complete traffic study demonstrating that the development will not negatively impact traffic flow or safety. Alternatively, the applicant may submit a plan that fully addresses and funds all traffic impacts identified in the traffic study.

5. Fire and Life Safety Protection

- a. Documentation from the Chief of Police, Fire Chief, Ambulance Service Chief, the Emergency Management Director and the Brookline Public Works Director that the project will not impact the Town's existing Fire and Life safety Protection as it relates to each Department. Alternatively, the applicant may submit a plan that fully addresses and funds all impacts to the Town's Fire and Life Safety Protection identified by the respective Department.

***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, Environmental Protection, Water Supply, Sanitary Disposal, Traffic Safety, Fire and Life Safety Protection as deemed necessary or appropriate by the Planning Board.

***632.00 Bonds***

The Planning Board shall require a Maintenance Bond for a period of not less than two (2) years in an amount necessary to address potential issues included, but not limited to Environmental Protection, Water Supply, Sanitary Disposal, Traffic Safety, Fire and Life Safety Protection based on the scale of the proposed development. The amount of the Maintenance Bond will be determined by the Selectboard with input from the appropriate Town Departments, State Agencies, or outside experts as needed. The Planning Board may require additional Bonds as deemed necessary by the Planning Board.

***633.00 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.

***634.00 Appeals***

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

***635.000 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.

***636.000 Effective Date***

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

*October 4, 2021*