

Adult Housing Ordinance – Marked-up Edition

Notes: Language shown in red and underlined is new language; language shown in black is existing language that is proposed to remain; and language shown in blue and stricken through is proposed to be deleted.

I.E DEFINITIONS

Adult Housing: A group of dwelling units wherein at least one resident per dwelling is 55 years of age or older within the meaning of M.G.L. c.151B, sec. 4(6) and 42 U.S.C. Sec. 3607(b)(2)(c), and in accordance with the same.

Dwelling: A structure or portion thereof which is exclusively for human habitation.

Exclusive Use Area (EUA): The outside area adjacent to the rear of each residential unit. When the unit is located on a common lot, there shall be an area designated for the exclusive use by the occupant of the respective unit. Such area shall be the width of the respective unit and traverse for approximately 20 feet from the foundation edge of the structure.

Parcel: A parcel or contiguous parcels of land that have common ownership, containing definite boundaries.

Preservation Area: An area of an Adult Housing project that is preserved in a natural state and which may only be improved with trails, benches, and vegetation. The minimum required Preservation Area shall not be comprised of more than 25 percent of lands defined as wetlands and associated 30' and 50' wetland buffers, vernal pools and the associated 125' buffer, rivers and associated riverfronts, or lakes.

Townhouse: A residential structure containing at least three, but not more than five, single-family dwelling units that are located side-by-side, and share at least one common or firewall. Each residential unit shall have one floor at ground level with an exclusive separate entrance, unless otherwise modified within these Ordinances.

Workforce Housing: Housing intended for households earning between 61 percent and 120 percent of the area median income (AMI). Such housing shall be governed by an affordable housing deed restriction in accordance with M.G.L. c. 184, sec. 31-33, and shall be reported annually to the Department of Planning and Economic Development in Framingham, or such other designated organization.

H. INCLUSIONARY HOUSING

Amend Section V.H.4 Exemptions as follows

i. Section V.H. shall not apply to the rehabilitation of any building or structure wholly or substantially destroyed or damaged by fire or other casualty, if no rehabilitation or repair shall increase the existing number of dwelling units on the lot prior to the damage or destruction thereof, except where such rehabilitation ~~would~~ provide compliance with these Ordinances. ~~in conformance with this By Law.~~

ii. Adult Housing, Section V.I of these Ordinances, shall be exempt from the requirements of Section V.H Inclusionary Housing. All projects identified as Adult Housing under Section V.I of these Ordinances shall follow the regulations set forth in Section V.I.6 of these Ordinances.

I. ~~ACTIVE~~ ADULT HOUSING

1. Purpose and Intent

The Adult Housing (AH) Ordinance provides an opportunity to create unique living opportunities for residents over the age of 55 years. This AH Ordinance is intended to develop parcels in such a way as to preserve land while providing a variety of housing options and services to those residents of the development. An AH development should strive to provide an integrated “live and play” type of environment through the inclusion of recreational space and trails, medical and personal service space, while providing connections to nearby neighborhoods, retail amenities, educational experiences, and social events.

The intent of AH is to encourage appropriate development that blends with surrounding land uses and neighborhoods, preserves large tracts of land, and creates a neighborhood environment that includes amenities for its users. The AH Ordinance is a land use application consistent with the goals and objectives of the Framingham Master Land Use Plan and Open Space & Recreation Plan.

~~This by-law is intended to provide housing for adult residents age 55 and older and designed to protect significant land, water, scenic, wildlife habitat and historic resources and to mitigate the impacts of residential development on municipal services.~~

2. Definitions

Definitions associated with Section V.I. of these Ordinances can be found in Section I.E. Definitions of these Ordinances. Such definitions include Adult Housing, Affordable Housing Units (AHU), Dwelling, Exclusive Use Area (EUA), Parcel, Preservation Area, Townhouse, Two-family Dwelling, and Workforce Housing.

~~The following terms shall be specifically applicable to these Active Adult Housing regulations and shall have the meanings provided below.~~

~~**Active Adult Housing:** A group of dwelling units for older adult residents of which at least one resident per dwelling is 55 years of age or older within the meaning of M.G.L. c.151B, sec. 4(6) and 42 U.S.C. Sec. 3607(b)(2)(c), and in accordance with the same.~~

~~**Developable Site Area:** The Developable Site Area shall be calculated by subtracting from the lot or parcel area all undeveloped land which is:~~

- ~~a. A wetland, which shall mean a “freshwater wetland” as defined in M.G.L. Chapter 131, Section 40 and the Framingham Wetlands Protection Bylaw, Article 18 of the General Bylaws;~~
- ~~b. A Floodplain District as defined in Section III.A.;~~
- ~~c. All areas of the site with slopes natural and unaltered greater than fifteen percent (15%) over a horizontal distance of 100 feet, as measured perpendicular to the contour line;~~
- ~~d. Any area that may not be built upon due to infrastructure restrictions such as easements for electric, gas, water or similar utility, or DEP regulations related to water supply;~~
- ~~e. Fifteen percent (15%) of the entire parcel for roads and impervious surface;~~
- ~~f. The common open space area as defined herein;~~

~~g. Rock or ledge outcropping.~~

~~The Developable Site Area shall not include land in another zoning district in which the principal use of the lot or parcel is not also permitted or land in another municipality.~~

~~**Exclusive Use Area (EUA):** The outside area adjacent to each residential unit, which is the designated area on the approved Active Adult Housing Plan for the exclusive use of the occupant of that unit.~~

~~**Senior:** An individual who is 55 years of age or older.~~

3. Land and Development Requirements

a. Land Requirements

To qualify for a special permit under the AH Ordinance, a parcel of land shall contain the following conditions:

- i. be located within a residential zoning district, which includes the Single Family (R-1, R-2, R-3, R-4) or the General Residential (G) Zoning Districts;
- ii. be serviced by public water and sewer over the legal frontage of the development parcel;
- iii. have not been subdivided into smaller parcels, including Approval Not Required (ANR) within a 5-year period prior to submission of an application for Section V.I, herein; and
- iv. have a minimum lot area per Zoning District as reflected in Table One, below, entitled Minimum Number of Buildable Acres.

Table One: Minimum Number of Buildable Acres

<u>Zoning District</u>	<u>R-1, R-2, G</u>	<u>R-3</u>	<u>R-4</u>
<u>Minimum Number of Buildable Acres¹</u>	<u>2acres</u>	<u>5acres</u>	<u>10acres</u>

b. Development Requirements

i. Division and Use of Land

Applicants shall utilize the following method when determining the total number of residential units permitted within an AH development in addition to setting aside the Preservation Area and amenity space. The basis for such determination shall be a Preliminary Subdivision Plan pursuant to the Rules and Regulations Governing the Division of Land in Framingham (Subdivision Rules and Regulations).

- a) The property boundaries shall be surveyed pursuant to the Rules and Regulations, in addition to the delineation of wetlands.
- b) Prior to the division of land, the area defined as Preservation Area shall be removed from the property as outlined in Table Two: Division of Land. Lands under an Agricultural Preservation Restriction (APR) or Conservation Restriction (CR) at the time of the surveying, delineation, and/or the submittal of an AH application shall not be included in the Preservation Area.
- c) The remaining lands not set aside as the Preservation Area may then be divided for the determination of the total number of lots pursuant to the Subdivision Rules and

¹ Buildable acres shall not include lands identified as wetlands and/or associated 30' and 50' buffers, in addition to vernal pools and the associated 125' buffer.

Regulations. Applicants may place a maximum number of residential units per lot as outlined in Table Two: Division of Land, minus one lot as outlined below. The Planning Board, at its discretion may choose to review the following considerations if in its opinion the number of residential units and scale of the project being proposed does not meet the actual carrying capacity of the land:

- Quality of the land and locations of wetlands, vernal pools, and all other resources and buffer zones as indicated by review of the Conservation Commission;
- Slopes defined as Moderate Slope;
- Public water and sewer capacity; and
- Capacity and safety of associated roadways and infrastructure.

The Planning Board reserves the right, at its sole discretion, to impose more stringent standards to ensure that vehicular safety concerns generated by the project are adequately addressed. Those concerns include extended stopping distances, sight line distances, and other similar traffic and circulation issues, etc.

- d) One lot shall not be included in the calculation for a determination of the number of residential units. Such lot shall be reserved for amenity structures and/or areas. The amenity structures and areas may exceed the size of one lot, but shall not take away from the number of residential units other than for the first lot as outlined within this sub-section.

Table Two: Division of Land

<u>Zoning District</u>	<u>R-1/G/R-</u>	<u>R-3</u>	<u>R-4</u>
	<u>2</u>		
<u>Maximum number of units per Lot pursuant to a Preliminary Subdivision Plan</u>	<u>2</u>	<u>3</u>	<u>4</u>
<u>Minimum Preservation Area</u>	<u>20 percent</u>	<u>30 percent</u>	<u>35 percent</u>

ii. AH Development Property

Prior to the preparation of a Preliminary Subdivision Plan, a parcel of land shall meet the requirements set forth in Table Three: Property Dimensional Requirements.

- a) The area known as the Property Front Setback as outlined in Table Three: Property Dimensional Requirements is intended to retain and enhance the character of the neighborhood. No structures shall be located within the Property Front Setback. However, such area may include street trees, stonewalls, trails, sidewalks, and other nonstructural features. A maximum of two access points may be established along one roadway. The Property Front Setbacks shall be measured from the edge of the property inward prior to the division of any land.
- b) The area known as the Property Side Setback as outlined in Table Three: Property Dimensional Requirements is intended to be retained as a “no disturbance” area. The Property Side Setback shall contain no structures, roadways, or infrastructure.

No vegetation in this buffer may be disturbed, destroyed, or removed, except for normal maintenance. The Property Side Setbacks shall be measured from the edge of the property inward prior to the division of any land.

Table Three: Property Dimensional Requirements

	<u>R-1, R-2, G</u>	<u>R-3 and R-4</u>
<u>Property Frontage</u>	<u>65 feet (minimum)</u>	<u>100 feet (minimum)</u>
<u>Property Front Setbacks</u>	<u>40 feet (minimum)</u>	<u>75 feet (minimum)</u>
<u>Property Side Setbacks</u>	<u>50 feet (minimum)</u>	<u>100 feet (minimum)</u>

iii. Internal AH Development Design

Once the number of residential units has been determined, and the Preservation Area has been located the Applicant shall utilize Table Four: AH Structure Design for the placement of structures within the AH development.

Table Four: AH Project Design ²

<u>Side Separation between Buildings</u>	<u>20 feet (minimum)</u>	<u>20 feet (minimum)</u>
<u>Rear Separation between Buildings</u>	<u>40 feet (minimum)</u>	<u>40 feet (minimum)</u>
<u>Building Height</u>	<u>35 feet (maximum)</u>	<u>35 feet (maximum)</u>
<u>Building setback from an internal roadway</u>	<u>20 feet (minimum)</u>	<u>20 feet (minimum)</u>

c. Siting of Residential Structures

- i. Structures with an AH development may be located on individual lots or on a common lot.
 - a) When structures are placed on individual lots the following shall apply:
 - 1) The size of the individual lot shall allow the residential unit to meet the requirements set forth in Table Four: AH Project Design. However, such spacing shall be measured from the property lines, rather than buildings.
 - 2) Whenever projects contain Townhouses and/or Two-Family Dwellings, said structures shall be permitted to have zero lot lines on the side of the structure where the common/party/fire wall exists. However, non-common/party/fire walls and rears of the structure shall conform to the requirements set forth in c.i.a)1) herein.
 - 3) Deeds associated with the individual lots shall include a reference to ownership of the Preservation Area, establishment of a Homeowner’s Trust/Corporation, in addition to any amenity structures within the entire project.
 - b) When structures are placed on a common lot the following shall apply:
 - 1) The individual structures are required to contain an Exclusive Use Area (EUA).

² Structures shall meet the requirements for the State Fire Code relative to spacing and fire safety.

- 2) Deeds associated with the individual lots shall include a reference to the EUA in addition to the established Homeowner's Trust/Corporation.

3. ~~Applicability~~

- ~~a. As the SPGA, the Planning Board may grant a special permit for the development and construction of an Active Adult Housing Development in the Single Residence Districts in accordance with this Section, Section VI.E. herein and MGL, Ch. 40A, Sec. 9., provided that no variances have been issued by the Zoning Board of Appeals from the requirements of this Section V.I.~~
- ~~b. Any change in the number of lots, dwelling units or bedrooms, the layout of the ways, any significant changes in the common open space, its ownership or use, or in any conditions stated in the original special permit shall require application for a new or modified special permit in accordance with the provisions of this Bylaw.~~
- ~~c. Where these regulations differ from or conflict with other provisions of the Zoning Bylaw or the Subdivision Rules and Regulations, the provisions stated within this Section V.I. shall prevail.~~

4. Amenity Uses

- a. Amenity structures shall be designed for a variety of passive and active recreational activities that support the residents of the AH development. Such uses that may be considered are community program spaces, fitness/therapeutic space, educational, recreational, and accessory space; areas for neighborhood meetings and event space; country club amenities; and any other amenities and opportunities that will create and promote an integrated neighborhood type environment.
- b. The Clubhouse may contain a space for personal services, therapists (Physical, Occupational, etc.) and/or medical professional to serve its residents.

4. ~~Special Permit Application and Procedure~~

- ~~a. The Planning Board shall be the special permit granting authority for the issuance of an Active Adult Housing Special Permit. Such special permit applications shall be submitted, considered, and issued only in accordance with the provisions of this Section V.I. and VI.E., the Rules and Regulations Governing the Subdivision of Land in the Town of Framingham (Subdivision Rules) and MGL, CH. 40A, sec. 9 and all other information that may be required by the Planning Board under its Rules and Regulations as may be adopted.~~
- ~~b. Any person who desires a Special Permit for an Active Adult Housing Development shall submit an application and site plan prepared by a qualified professional registered in the Commonwealth of Massachusetts, such as a Registered Professional Engineer, a Registered Architect, and a Registered Landscape Architect, that meets the requirements set forth herein and in Sections 1, 2, 3, 6 and 7 of Subdivision Rules and Section VI.E.3.. To the extent permitted by law, all applications and permits required under this By-Law may be considered concurrently.~~
- ~~c. Based upon the scope of the project and physical characteristics of the parcel, the Planning Board may require additional information or a supplemental impact statement, such as additional geological investigation or high intensity soils mapping of the site. The Planning Board, at its sole discretion, may determine that a proposed project's size, scale,~~

~~complexity, potential impact or use of the land warrants the use of outside consultants. Such consultants shall assist the Planning Board, for review and comment prior to action by the Planning Board in plan review, impact analysis, inspection or other technical or legal assistance necessary to ensure compliance with all relevant laws and regulations. Such assistance may include, but shall not be limited to, analyzing an application, providing legal counsel for decisions and covenants, and monitoring or inspecting a project or site during construction or post construction for compliance with the Board's decisions or regulations. Such consultants shall be selected and retained by the Planning Board, with the actual and reasonable costs for their services to be paid by the applicant in accordance with Article 16 of the Planning Board Rules and Regulations.~~

- ~~d. Any person intending to submit an application for an Active Adult Housing Development shall have a pre-application conference with the full Planning Board that has been noticed by a community notice sign posting on the property, in the local newspaper at the Applicant's expense and by mail to abutters and to town meeting members in the precinct at which time the applicant shall describe the proposed plan and any impacts to the parcel of land that will be required in order to file a complete application. If the Active Adult Housing Development is proposed to have private wells and sewage disposal systems on site, the Applicant shall submit the proposal to the Board of Selectmen for the purpose of determining by majority vote whether to allow a well or septic system on the site. The Board of Selectmen acting as the Water and Sewer Commissioners shall hold a public hearing within 45 days of said submission. No tree removal, no utility installation, no ditching, no soil or percolation testing, no well testing, no grading or construction of roads (temporary or otherwise), no grading of land or lots, no excavation, no dredging or filling, and no construction of buildings or structures shall be done on any part of the development site until the proposal has been reviewed at the pre-application conference and the Board has given its approval for the required work.~~
- ~~e. The Planning Board, at its discretion and based upon the pre-application conference and preliminary assessment of the scale of the development proposed, may modify or waive the application requirements for submission in the Subdivision Rules. Such modifications or waivers from the application submission requirements shall be requested in writing with supporting reasons. Any such preliminary waivers granted at the pre-application or preliminary level of review is a preliminary assessment by the Planning Board and such waivers shall not be binding upon the Planning Board at the Definitive Subdivision Review and/or Special Permit Review.~~

5. AH Design Standards

a. Residential Units

i. Structure Types and Colors

- a) The development shall include a mixture of architectural styles including cottages, capes, colonials, ranches, Two-family Dwellings, and Townhouses that are blended and dispersed throughout the development. Prefabricated and kit homes are strongly discouraged.**

- b) Exterior material and colors of structures are required to be varied and to complement colors used in the surrounding area. One color should not dominate the development.
- ii. Age-Appropriate Design
 - a) For the purposes of creating an “aging in place” community all residential structures shall be constructed to be easily modified to visibility standards at a future date, unless otherwise requested at time of the original sale. All structures shall include the following:
 - 1) A master bedroom with an accessible in suite bathroom located on the same floor as the kitchen, living room, and dining room.
 - 2) A minimum of one entrance that is easily modifiable to be ramp accessible, a zero step entrance, or a no-step entrance.
 - 3) Reinforced blocking within the walls of the first-floor bathroom to provide for installation of grab bars and other accessible bath features.
 - 4) A minimum of one indoor/garaged parking space for each unit.
 - 5) Outside facilities such as walkways, gardens, and recreation areas shall be designed for universal access.
 - 6) Trails within the Preservation Area are strongly encouraged to be publicly accessible and shall connect the AH development with abutting open space parcels, trail networks, water resources, public amenities, public ways and/or neighborhoods.
- iii. Rooflines and Rooftops
 - a) Roofs of structures within an AH development are encouraged to incorporate architecturally diverse styles (examples include: cornices, dormers, gambrel roofs, gabled roofs, mansard roofs, saltbox, hip roofs, hip roofs with decks, etc.).
 - b) All roof top mechanical equipment for all structures shall be screened, with the exception of chimneys.
- iv. Porches and Decks
 - a) Structures within an AH development shall be architecturally diverse through the use of farmer’s porches, open porches, front porches, porticos, second floor patios off bedrooms, etc.
 - b) Decks or three season rooms shall be included within the design of all structures and located to the side or rear of the structure.
- v. Garages
 - a) Garages shall not dominate the frontage of a structure nor shall the garage extend more than 6 feet front of the structure.
- b. Design Standards
 - i. The Neighborhood Cluster Development design standards found in Section V.K.3.d.2., 3., 4., 7., 9-12, 15-18 of these Ordinances.
- c. Parking
 - i. Two vehicular parking spaces shall be required per dwelling unit.
 - ii. One vehicular parking space shall be required for every four dwelling units for visitor parking. Such visitor spaces shall be located throughout the development.

- iii. The development shall include parking in proximity to any clubhouse or other facility-serving residents in common or guest parking, and may be required in off-street parking areas as determined by the Planning Board.
- iv. No single accessory parking area shall contain more than eight parking spaces and all such areas shall be adequately landscaped.
- v. A minimum of two parking spaces shall be provided for public use when the proposed trail system connects to a publicly accessible park or trail system. One of the two parking spaces shall be ADA compliant. "No Overnight Parking" signage shall be installed within the area designated for trail parking.
- e. Landscaping
 - i. Where the perimeter buffer is wooded, it shall remain in a natural, undisturbed state to preserve the natural character of the existing parcel in relation to the surrounding neighborhood.
 - ii. At the sole discretion of the Planning Board, a no-cut easement or conservation restriction may be required within the perimeter buffer.
 - iii. One street tree shall be planted in front of each residential unit. For portions of roadways where there are no residential structures one street tree shall be planted every 30 feet along the roadway.
 - iv. Existing trees shall be retained to the greatest extent feasible. All trees over 10 inch caliper that have to be removed to accommodate construction shall be replaced elsewhere on the project site with one native or hybrid species that is a minimum of a 3 inch caliper and two native shrubs as approved by the Planning Board.
 - v. Landscaping shall be required within the frontage of each unit and between buildings to provide a sense of privacy and to further breakup the streetscape.
- f. Infrastructure and Roadways
 - i. All infrastructure and roadways shall be constructed and installed in accordance with the Framingham Planning Board Subdivision Rules and Regulations Governing the Division of Land in Framingham, as amended.
 - ii. One-way streets are strongly encouraged throughout the development.
 - iii. On-street parking shall be permitted on one side of one-way streets. Such on-street parking shall not be counted towards visitor off-street parking.
 - iv. Sidewalks shall be incorporated and installed throughout the AH development.

5.—Age Restriction

~~Each dwelling in an Active Adult Housing Development shall be subject to an age restriction, and said age restriction shall be part of the deed, deed rider, restrictive covenant or other documents of record that shall be recorded at the Registry of Deeds of the Land Court. The age restriction shall run with the land and shall be enforceable by any or all of the owners of dwelling units in the Active Adult Housing Development or by the Town of Framingham.~~

- ~~a. Such age restriction shall limit the dwelling units to occupancy by adults only, one of whom must be a senior, and shall provide for guest visitation rights for minor children up to 60 days per calendar year.~~

- ~~b. Marketing of units in an Active Adult Housing Development shall comply with all Fair Housing Laws and shall include, to the extent legally allowable, a strategy for marketing units to Framingham residents and their immediate families.~~
- ~~c. In the event of the death of the qualifying owner/occupant(s), or foreclosure or other involuntary transfer of a unit in an Active Adult Housing Development, an age restriction exemption shall be allowed for the transfer of the unit to another eligible household for at least two year.~~

6. Workforce and Inclusionary Housing

In an effort to provide a diversity of housing stock within the development and Framingham, a developer of an AH project shall provide a minimum of ten percent of the units on-site as Workforce Housing and a minimum of five percent of the units on-site as Affordable Housing Units (AHU), pursuant to Section 6.a below.

- a. Workforce Housing and Affordable Housing Units (AHU)
 - i. The Applicant shall be required to provide both Workforce Housing and AHU within the AH development. Said units shall be constructed in the same manner as the market rate units and shall be sold to qualifying persons who are employed and meet the requirements of an AH development. Framingham residents and/or employees of businesses located within Framingham shall be given a local preference for seventy percent of the Workforce Housing units and AHUs.
 - ii. Qualified individuals shall be selected through the same process as prescribed in Section V.H, with the exception of filing an LIP Application with the State. Applicants shall reference the Planning Board Rules and Regulations for specific requirements relative to the Workforce Housing and AHU process.
 - iii. Each Workforce Housing unit and AHU shall be deed restricted respectively and shall be reviewed and approved by the Framingham Planning Board and the City Solicitor prior to obtaining an occupancy permit.
 - iv. Subsequent owners shall file notice of sale of a Workforce Housing Unit or AHU and shall follow the same process, in which it was originally sold. The Framingham Planning Board or its designee shall keep records of all Workforce Housing Units and AHU within Framingham associated with AH developments.
- b. Affordable Housing Unit (AHU)

In lieu of constructing the five percent of the AHU on-site, the Applicant may make a cash payment for the required number of AHU. Such payment shall be equal to 50 percent of the construction cost associated with the median construction cost in the Boston Metropolitan Area area as determined by the Building Commissioner. Framingham shall create AHU with such funds in as close proximity to the project as possible. Payment shall be made prior to the completion of each 10 percent of the units is completed.

~~6. Allowed Uses~~

~~The following uses shall be allowed in Active Adult Housing Special Permit: detached dwellings for one family dwelling, two family dwellings, and multifamily dwellings up to three units per building; accessory uses typically associated with residential uses including, but not limited to, clubhouses, swimming pools, tennis courts, cabanas, storage and~~

~~maintenance structures, garages, common facilities and uses as set forth herein; and uses allowed on the Common Open Space, as set forth herein. More than one building may be located on a lot.~~

7. Conservation Restriction (CR) of the Preservation Area

All open space preserved under this Section of these Regulations shall be subject to the following conditions without exception:

- a. Such parcel shall be placed under a CR in perpetuity pursuant to M.G.L. c. 184, Section 32 to ensure that said parcel would remain as agricultural land or open space in perpetuity. Once a CR has been placed on the Preservation Area, the construction of additional buildings is prohibited, and no portion of the Preservation Area land shall be used to yield additional structures.
- b. The municipality shall act through its Conservation Commission or Parks and Recreation Commission, a land trust, or the Commonwealth of Massachusetts and shall hold the Conservation Restriction (CR). The CR shall not remain under the ownership of the landowner and/or Homeowner's Trust/Corporation or any other trust. In all cases, the terms of the CR, including the nature and extent of public access and provisions for property maintenance shall be reviewed and approved by the Planning Board, City Solicitor, and City Council prior to any permit being granted.
- c. Prior to the issuance of the first building permit and at the expense of the Applicant, the entire open space land area preserved under the Preservation Subdivision shall be placed under a CR in perpetuity and held by the municipality in conjunction with a charitable corporation or trust whose purposes includes the conservation of land.
- d. The holder of the CR may allow for community gardens, passive recreation, trails, and recreation fields upon agreement by the CR holder and the landowner and/or homeowner trust.
- e. All of the above restrictions shall be incorporated as part of each structure's deed and part of the CR.

7. Allowed Uses

~~The following uses shall be allowed in Active Adult Housing Special Permit: detached dwellings for one family dwelling, two family dwellings, and multifamily dwellings up to three units per building; accessory uses typically associated with residential uses including, but not limited to, clubhouses, swimming pools, tennis courts, cabanas, storage and maintenance structures, garages, common facilities and uses as set forth herein; and uses allowed on the Common Open Space, as set forth herein. More than one building may be located on a lot.~~

8. Age Restriction

Each dwelling in an AH development shall be subject to an age restriction, in compliance with Fair Housing Laws, and said age restriction shall be part of the deed, deed rider, restrictive covenant, and/or any other documents of record that shall be recorded at the Registry of Deeds with the Land Court. The age restriction shall run with the land and shall

be enforceable by any, or all of the owners of dwelling units in the AH development or by the City of Framingham.

- a. Such age restriction shall limit the dwelling units to occupancy by adults only, one of whom must be 55 years of age or older.
- b. Marketing of units in an AH Development shall comply with all Fair Housing Laws and shall include, to the extent legally allowable, a strategy for marketing units to Framingham residents and their immediate families.
- c. In the event of the death of the qualifying owner/occupant(s), or foreclosure or other involuntary transfer of a unit in an AH development, an age restriction exemption shall be allowed for the transfer of the unit to another eligible household for at least two years.
- d. Children under the age of 18 shall be limited to occupancy for a maximum of 60 days within a six-month period, unless written approval by the Board of Trustees is granted.

~~8. Hydrological Impact Study and Nitrate Loading Analysis~~

~~Prior to the issuance of a special permit, the Applicant shall be required to provide a Hydrological Impact Study and Nitrate Loading Analysis for any proposed on-site water and/or sewage disposal systems, individual, common, or shared, to demonstrate that the development will have an adequate water supply and sewerage collection system and shall not have an adverse impact on the quantity and quality of any existing surface or groundwater resources or existing water supplies and wells. The location of all wells and septic systems on abutting properties shall be reviewed in the study and identified on the developmental plan. The analysis shall conform to the requirements of the requirements of the Massachusetts Department of Environmental Protection and be subject to peer review by a licensed hydrologist, expert in the field of evaluating these impacts.~~

9. Construction

As part of the Special Permit, the Planning Board may impose specific phasing conditions designed to limit the period allowed for noise, traffic, and disruption during the construction phases that would adversely impact living conditions, safety, or business in the immediate area. Failure to comply with the conditions set forth in the Special Permit will result in revocation of the Special Permit, applicable fines from the Department of Inspectional Services, and/or other punitive actions by the City.

~~9. Architectural Design Standards~~

~~Architectural style and siting of Active Adult Housing buildings shall be consistent to the extent feasible with the prevailing character and scale of buildings in the neighborhood. To provide visual interest and avoid monotony, the architecture shall be designed to provide variation through the use of color, building materials, details, breaks in roof and wall lines, porches, detailed cornices and substantial roof overhangs, dormers, screening and/or other architectural elements. Traditional materials such as masonry and wood are strongly encouraged for the exterior facades. Windows and exterior doors shall be consistent and compatible with the materials, style and color of the building, and shall be arranged to give the façade a sense of balance and proportion.~~

All dwelling units in an Active Adult Housing Development shall be designed and constructed to be adaptable with only minor structural changes to meet the requirements for Group 1 residences as set forth in the Massachusetts Building Code, 521 CMR (Architectural Access Board), as amended. Such dwelling units shall have at least one exterior entrance at ground level. Residential parking spaces shall be located as defined in Section 11 herein.

10. Procedure for Waiver

All AH development projects shall comply with Sections V.I of these Ordinances. The Planning Board may waive the requirements of Section V.I.5 of these Ordinances by a four-fifth vote where such waivers will allow for better design and/or improved protection of resources.

10. — Parking Requirements

~~One vehicular parking space shall be required per principal dwelling unit with one bedroom and two vehicular parking spaces shall be required per principal dwelling unit with two bedrooms. In addition, one vehicular parking space shall be required for every four dwelling units for visitor parking. Additional parking in proximity to any clubhouse or other facility serving residents in common, or guest parking, may be required, as determined by the Planning Board, in off-street parking areas. No single accessory parking area shall contain more than twelve parking spaces, and all such areas shall be adequately landscaped.~~

11. Homeowner's Trust/Corporation

- a. The applicant shall establish a Homeowner's Trust/Corporation for the AH Development. The Homeowner's Trust/Corporation shall operate in accordance with a Homeowner's Trust/Corporation Agreement, which shall be submitted to the Planning Board and the City Solicitor for review and approval prior to its recording or the sale of any unit of the release of the dwelling units.
- b. The Homeowner's Trust/Corporation documents shall provide for the maintenance in perpetuity of the common area lands and Preservation Area, the drainage system of the development including any detention or retention basins, common sewage facilities, common leaching areas, streets and sidewalks, paths, common recreation and maintenance facilities, common parking structures and parking lots, and other common use areas and facilities within the development.
- c. Snow and rubbish removal within the project limits shall be the responsibility of the project owner/developer or subsequent homeowner's association, in perpetuity, with no responsibility on the part of the municipality.

11. — Parking and Garage Design Standards

~~Residential parking spaces shall be located in reasonable proximity to the dwelling or in attached garages. One or two car parking garages attached to individual dwelling units shall be encouraged. Such garages shall be designed so as to complement and not dominate the building design and site layout. They shall not obscure the front of the unit or building and may extend no more than six feet beyond the face of the building, unless the Planning Board waives this requirement. Freestanding garages shall be located to the side or to the rear of the building or units.~~

12. Variance

The Planning Board shall not grant a special permit for the development and construction of an AH Development if a variance from the requirements of Section V.I of these Ordinances has been issued by the Zoning Board of Appeals.

~~12. Common Open Space~~

- ~~a. At least fifty percent (50%) of the Common Open Space shall meet the criteria for Developable Site Area. The Common Open Space Area shall not include the area of roadways, Zone 1 of a public water supply, dwelling units or Exclusive Use Areas.~~
- ~~b. The Common Open Space shall be designed in accordance with the following requirements
 - ~~(1) Common Open Space shall be designed and planned as large, contiguous units, whenever possible, with logical boundaries. Strips or narrow parcels of Common Open Space shall be permitted only when necessary for access, when necessary to connect to other significant areas, when they are designed to protect linear resources such as trails or streams, or as vegetated buffer strips along the site's perimeter where the Planning Board finds that such strips are deemed appropriate and consistent with the purpose of this Section.~~
 - ~~(2) Common Open Space may be set aside in more than one parcel provided that the size, shape and location of such parcels are suitable for the designated uses.~~
 - ~~(3) Common Open Space shall be designed as part of larger continuous and integrated open space systems. Whenever possible, it should connect with existing or potential conservation or open space areas on adjoining parcels.~~
 - ~~(4) The Common Open Space shall include adequate upland access from a way or street.~~
 - ~~(5) The Common Open Space shall generally be directly accessible to each dwelling unit in the development, unless the Planning Board finds that, due to topography or other conditions, this access is not practical.~~
 - ~~(6) The Common Open Space shall have a shape, dimension, character and location suitable to assure its use for park, recreation, conservation, or agricultural purposes. The Common Open Space shall include the most sensitive resource areas of a property. In determining whether the intent of this section has been satisfied, the Planning Board shall consider the extent to which land having one or more of the following characteristics is included in the proposed open space:
 - ~~(a) Land which enhances or protects wetlands or floodplain adjacent to a water body, or which provides public access to the water body, or which provides water related recreational opportunities;~~
 - ~~(b) Land which currently is in agricultural use or land which is suitable in size, location and soil characteristics for agricultural use;~~
 - ~~(c) Land which provides a significant wildlife habitat or which is a unique natural area;~~~~~~

- ~~(d) Land which is to be developed for active recreational use including playing fields, boat launching areas, playgrounds, and neighborhood parks;~~
 - ~~(e) Land which preserves existing trail networks or land on which new trails will be developed, for integration into an existing trail network;~~
 - ~~(g) Land which enhances or provides significant scenic vistas or views, or which provides scenic roadside views;~~
 - ~~(h) Land providing desirable public access to existing recreational or conservation land.~~
- ~~c. The Use, Ownership and Maintenance of the Common Open Space shall be in accordance with the requirements of Section V.F.4.g. and h.~~
 - ~~d. Common Open Space located outside the Developable Site Area, used for passive recreation and owned or controlled by an entity other than the Homeowner's Association shall be accessible to the public.~~
 - ~~e. Wetlands as determined by the Conservation Commission, shall not qualify as Open Space.~~
 - ~~f. The Open Space shall be left in an undisturbed state. Landscape plantings shall not be permitted, except in areas where revegetation may be necessary to increase buffering, as determined by the Planning Board.~~

13. Common Facilities

~~Common facilities may include accessory uses to the dedicated Use or Uses of the Active Adult Housing Development, including pavement and structures, provided that such a use enhances the general purpose of this By Law and enhances better site and community planning. Such uses may include, but are not limited to, a clubhouse, swimming pool, tennis court, cabanas, storage and maintenance structures and such facilities as common leaching areas associated with septic disposal or sewage systems serving the Active Adult Housing Development, pumping stations and appurtenances, storm water drainage systems and infrastructure, private streets, driveways, sidewalks, paths and common parking areas. Such uses and above ground common facilities shall generally be located outside of the dedicated Common Open Space, and shall be suitably landscaped to enhance the appearance of the facility. Underground pipes and utility easements may, however, extend through the Common Open Space, where necessary, to make proper connections and prescribed loops to existing infrastructure.~~

14. Homeowner's Association

~~The applicant shall establish a homeowner's association for the Active Adult Housing Development. The homeowner's association shall operate in accordance with a Homeowner's Association Agreement which shall be submitted to the Planning Board and Town Counsel for review and approval prior to its recording or the sale of any unit or the release of the dwelling units. The homeowner's association documents shall provide for the maintenance in perpetuity of the common area lands and Common Open Space, the drainage system of the development including any detention or retention basins, common sewage facilities, common leaching areas, common wells, streets and sidewalks, paths, common recreation and maintenance facilities, common parking structures and parking~~

~~lots, and other common use areas and facilities within the development. Snow plowing within the project limits and rubbish disposal will be, and shall also remain in perpetuity, the responsibility of the project owner/developer or subsequent homeowner's association, and not the Town.~~

15. ~~Conditions of Approval of Special Permit~~

~~The Planning Board shall not approve any application for a special permit unless it finds in its judgment that all of the following conditions are met:~~

- ~~a. those conditions prescribed in Section VI.E.3.a. of the Framingham Zoning By Law;~~
- ~~b. a Definitive Subdivision Plan Approval for the parcel has been received and~~
- ~~c. where there is no municipal water and/or sewer, the application has been approved by the Board of Health, prior to the vote of the Planning Board;~~
- ~~d. where there is no municipal water and/or sewer, the Planning Board may at its discretion require the applicant to receive approvals from the Massachusetts Department of Environmental Protection, prior to the vote of the Planning Board.~~

~~In approving a special permit, the Planning Board may attach such conditions and safeguards as are deemed necessary to protect the neighborhood, including but not limited to those prescribed in Section VI.E.3.b. of this Bylaw.~~

~~The applicant, when other than the owner(s), and the owner(s) of land will be responsible for mitigation measures or conditions which are required as part of a favorable decision for issuance of a special permit.~~

16. ~~Limitation of Subdivision~~

~~No lot shown on a plan for which a permit is granted under this section may be further divided so as to reduce the area of any lot for the purpose of creating an additional building lot(s) and a condition to that effect shall be shown on the recorded plan and on each deed conveying building lots on said plan.~~

17. ~~Building Permit Limitation~~

~~The Building Commissioner shall not issue building permits for Active Adult Housing developments once the number of such units for which building permits have previously been issued reaches two percent (2%) of the total number of dwelling units (26,734) in the Town of Framingham as documented in the 2000 Census. Any changes to the Building Permit Limitation, as set forth herein, shall require approval by Town Meeting.~~

18. ~~Enforcement~~

~~In accordance with the provisions of M.G.L.c.40A, Sec. 7, the Town may enforce the conditions imposed on the exercise of special permits under this Section to the fullest extent permitted in equity or law. In the event of a violation of law, an unauthorized sale or lease of the approved development site or any dwelling unit therein, development that deviates from the development plan approved, any use of the property that is not permitted in the development site, or if the applicant shall otherwise fail or neglect to comply with the conditions imposed on the exercise of the special permit, the Building~~

~~Commissioner may issue an order of compliance or stop order to the applicant or his agent or take other enforcement action as allowed by law and this Zoning By-law.~~