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2019 MAY -9 AM 10:33

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FRAMINGHAM CITY COUNCIL

ORDER NO. 2019-027-001  
REQUEST OF THE PLANNING AND ZONING SUBCOMMITTEE

UPON THE REQUEST OF THE PLANNING AND ZONING SUBCOMMITTEE, THE CITY OF FRAMINGHAM, THROUGH THE FRAMINGHAM CITY COUNCIL, IT IS SO ORDERED:

That, diligent review and input from the public at a public hearing held on Tuesday, April 16, 2019, the City Council votes to approve the proposed amendment to the Zoning Bylaw relative to Adult Housing as follows:

- ◆ Delete Section V.I “Active Adult Housing” in its entirety and replace it with a new Section V.I Adult Housing;
- ◆ Amend Section I.E “Definitions” to revise or add definitions associated with the new Section V.I. Adult Housing; and
- ◆ Amend Section V.H.4 “Inclusionary Housing, Exemptions” relative to the new Section V.I Adult Housing

The full text of the amendment follows this Order.

FIRST READING:

YEAS: Cannon, Giombetti, Grove, King, Rossi, Richardson, Sisitsky, Steiner, Tully Stoll

NAYS: None

ABSTAIN: None

ABSENT: Torres

PASSED IN COUNCIL: APRIL 16, 2019

SECOND READING:

YEAS: Cannon, Giombetti, King, Rossi, Richardson, Sisitsky, Steiner, Tully Stoll

NAYS: None

ABSTAIN: None

ABSENT: Grove, Torres (Ms. Grove was out of the room at the time of the vote)

PASSED IN COUNCIL: APRIL 30, 2019

A True Record, Attest:

5/8/19

Date Approved

Lisa A. Ferguson, City Clerk

5/21/19

Date Approved

Yvonne M. Spicer, Mayor

## Adult Housing Ordinance – May 1, 2019

### I.E DEFINITIONS

**Adult Housing:** One or more dwelling units intended for and solely to be occupied by one or more individuals who have reached at least 62 years of age as defined in M.G.L. c.151B, sec. 4(6) and 24 CFR Part 100 (Implementation of the Housing for Older Person Act of 1995). Such dwelling(s) may include one or more persons who are at least 62 years of age living with one or more live-in aides who are below the age of 62.

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

**Exclusive Use Area (EUA):** The outside area adjacent to each residential unit. Whenever a unit is located on a common lot there shall be an area designated as an EUA as determined by the original owner of the unit. Such exclusive use area shall be the width of the respective unit and extend no less than 20 feet from the foundation edge of the structure.

**Parcel:** A distinct tract of land containing definite boundaries, or contiguous tracts of land held in common ownership.

**Preservation Area:** An area of an Adult Housing project to be preserved in its natural state that may only be improved by natural surface trails, benches, and native vegetation. The calculation of the minimum area required for the Preservation Area shall not include more than 25 percent wetlands and vernal pools and buffers thereto, as defined under M.G.L. c. 131, Section 49 and the regulation promulgated thereunder as 310 C.M.R. 10.00 and the City of Framingham Wetland Bylaws, or rivers and associated riverfronts, or lakes.

**Townhouse:** A residential structure containing at least three, but not more than five, single-family dwelling units constructed side-by-side with at least one common firewall. Each residential unit shall have one floor at ground level with its own exclusive separate entrance, unless otherwise modified within these Ordinances.

**Workforce Housing:** Housing intended for households earning between 60 percent and 120 percent of the area median income (AMI). A minimum of 50 percent of the Workforce Housing units at the development must be affordable for households earning at or below 80 percent of the 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 Community Development in Framingham, and/or such other designated organization as required for compliance.

## 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, provided that ~~if no~~ such rehabilitation or repair does not increase the existing number of dwelling units on the lot prior to the damage or destruction thereof, except where such rehabilitation otherwise complies with these Ordinances.
- ii. Active Adult Housing projects providing housing for adult residents age 55 and older approved by the Planning Board under the former Active Adult Housing By-Law (Section V.I) prior to the first publication of notice of this amendment to the Zoning Ordinance and filed with the Town or City Clerk, shall comply with the conditions of the granted decision for the respective project for Inclusionary Housing.

## I. ADULT HOUSING

### 1. Purpose and Intent

The Adult Housing (AH) Ordinance is intended to provide unique living opportunities for adult residents over the age of 62 years. The AH Ordinance is intended to develop parcels of land in such a way so as to preserve tracts of land while providing a variety of housing options and services to 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, and medical and personal service space, while providing walkable connections and access to nearby neighborhoods, retail amenities, educational experiences, social events, and aging in place options.

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.

### 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.

### 3. Land and Development Requirements

#### a. Land Requirements

To qualify for a special permit under the AH Ordinance, the Special Permit Granting Authority (SPGA) must find that the subject parcel satisfies all of the following conditions:

- i. the parcel is located within a residential zoning district that includes the Single Family (R-1, R-2, R-3, R-4) or the General Residential (G) Zoning Districts;
- ii. the parcel is serviced by public water and sewer over the legal frontage of the development parcel;
- iii. the parcel has 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. the parcel contains a minimum lot area per Zoning District as reflected in Table One below, titled “Minimum Number of Buildable Acres”.

Table One: Minimum Number of Buildable Acres

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

<sup>1</sup> Buildable acres shall not include lands identified as Preservation Area, wetlands and/or associated 30' and 50' buffers, vernal pools and the associated 125' buffer, and the 200' riverfront buffer (Section III.A of the Zoning Ordinances).

## b. Development Requirements

### i. Division and Use of Land

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

The following steps shall be followed to determine the number of units within an AH development.

- a) The Preliminary Subdivision Plan shall depict:
  - i. the surveyed boundaries;
  - ii. the delineation of wetlands and identification of the 30-foot and 50-foot wetland buffers and the 125-foot vernal pool buffer;
  - iii. the Preservation Area<sup>2</sup>, pursuant to Table Two: Division of Land, prior to the division of land;
  - iv. 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; and
  - v. The remaining lands not delineated as wetlands, vernal pools and buffers, shown as the Preservation Area, and placed under an APR, and/or CR may then be divided for the determination of the total number of individual lots pursuant to the Subdivision Rules and Regulations. Each individual lot shall have the appropriate amount of upland to be deemed a buildable lot as set forth in Table Two: Division of Land.
- b) The Planning Board reserves the right, at its sole discretion, to impose more stringent standards and/or to reduce the number of units to ensure that impacts generated by the project on:
  - 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 (extended stopping distances, sight line distances, and other similar traffic and circulation issues, etc.)are adequately addressed.
- c) One 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 reduce the number of residential units other than for the first lot as outlined within this sub-section. This lot

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<sup>2</sup> The Preservation Area shall be removed from the parcel as outlined in Table Two: Division of Land, prior to the division of land

on which amenity structures are situated shall not be included in the determination of the number of residential units to be constructed.

- d) Applicants may place a maximum number of residential units per lot as outlined in Table Two: Division of Land, minus one lot for amenity purposes.
- e) Assuming feasibility when all other constraints are met, applicants may qualify for up to but not more than a 50 percent density bonus (1.5 units per buildable lot) based on the preliminary subdivision plan, and lot-size requirements determined for each zoning district. The Amenity Structure will not count toward the total unit number calculation. The Planning Board reserves the right to reduce the density bonus as described elsewhere due to other constraints such as traffic, safety, resource protection, infrastructure, etc.
- f) For each additional unit above the allowed number of lot yielded by the preliminary subdivision plan the developer shall provide an additional one percent of the property (minus the Preservation Area) as open space and added to the Preservation Area. The required AHU and the Workforce Housing Units shall not be counted nor require additional open space for the Preservation Area. If the developer provides more than the minimum required AHU and/or Workforce Housing units then these will require additional Preservation Area to be provided.

Table Two: Division of Land

Zoning District	R-1/G/R-2	R-3	R-4
Maximum density increase above the allowed Preliminary Subdivision Plan yield	50%	50%	50%
Minimum Preservation Area	20%	30%	35%

ii. AH Development Parcel

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

Table Three: Parcel Dimensional Requirements

	R-1, R-2, G	R-3 and R-4
Parcel Frontage	65 feet (minimum)	100 feet (minimum)
Parcel Front Setbacks	40 feet (minimum)	75 feet (minimum)
Parcel Side Setbacks	50 feet (minimum)	100 feet (minimum)

- a) The area known as the Parcel Front Setback as outlined in Table Three: Parcel Dimensional Requirements is intended to retain and enhance the character of the neighborhood. The Parcel Front Setback shall be measured from the edge of the property inward prior to the division of any land. No structures shall be located within the Parcel Front Setback, but the SPGA may allow street trees, stonewalls, trails, sidewalks, and other nonstructural features within the Parcel Front Setback. A maximum of two curb cuts may be established along one roadway.
  - b) The Parcel 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 Parcel Side Setbacks shall be measured from the edge of the parcel inward prior to the division of any land. The area known as the Parcel Side Setback as outlined in Table Three: Parcel Dimensional Requirements is intended to be retained as a “no disturbance” area.
- 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 Structure Design <sup>3</sup>

	R-1, R-2, G	R-3 and R-4
<b>Side Separation between Buildings</b>	20 feet (minimum)	30 feet (minimum)
<b>Rear Separation between Buildings</b>	40 feet (minimum)	40 feet (minimum)
<b>Building Height</b>	35 feet (maximum)	35 feet (maximum)
<b>Building setback from an internal roadway</b>	20 feet (minimum)	20 feet (minimum)
<b>Minimum Size of Individual Lots</b>	4,000sf	8,000sf

**c. Siting of Residential Structures**

- i. Structures within 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 exterior walls of a structure<sup>4</sup> rather than the parcel lines of the individual AH residential structure lots.
    - 2) Single Family, Townhouse, and/or Two-Family Dwelling structures shall be permitted to have zero lot lines on the side of the structure where the

<sup>3</sup> Structures shall meet the requirements for the State Fire Code relative to spacing and fire safety.

<sup>4</sup> When single family structures are constructed with a zero lot line there shall be a five-foot separation between the exterior wall and the lot line for the purposes of maintenance.

common/party/firewall exists. However, non-common/party/firewalls and rear walls of the structure shall conform to the requirements set forth in subparagraph c.i.a)1) above.

- 3) Deeds shall include references to the recorded ownership of the Preservation Area and establishment of a Homeowner's Trust or Association and to the existence and recorded ownership of amenity structures within the entire project.
- b) When structures are placed on a common lot the following shall apply:
  - 1) Each individual structures shall contain an EUA.
  - 2) Deeds shall include references to the EUA in addition to the established Homeowner's Trust or Association.

#### **4. Amenity Structures and Uses**

- a. Amenity structures shall be designed to allow for a variety of passive and active recreational activities that support the residents of the AH development. 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 are intended to create and promote an integrated neighborhood type environment.
- b. A clubhouse may contain a space for personal services, therapists (Physical, Occupational, etc.) and/or medical professionals to serve its residents.

#### **5. AH Design Standards**

- a. Residential Units
  - i. Structure Types and Colors
    - a) The development should include a mixture of architectural styles (e.g., cottages, Cape Cod, Colonial, or Ranch design houses, Two-family Dwellings, and Townhouses) that are blended and dispersed throughout the development.
    - b) Exterior material and colors of structures are required to be varied and to complement colors used in the surrounding area. One color palette 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 with universal design principles and construction design that can be easily modified for accessibility. The original owner may request specific accessibility features on the ground floor level, such as a zero-step entry and grab bars. A minimum of 50 percent of the units shall be initially designed with a zero-step or no-step entry from an accessible path. 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) Doorways shall be a minimum of 36 inches wide throughout the first floor.
      - 3) A minimum of one entrance that is easily modifiable to be transformed into a temporary or a permanent no-step entry from an accessible path between the driveway or street and the door.

- 4) Reinforced blocking within the walls of the first floor bathroom to provide for installation of grab bars and other accessible bath features.
    - 5) A minimum of one indoor/garaged parking space for each unit.
  - b) Outside facilities such as walkways, gardens and recreation areas shall be designed for universal access.
  - c) 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 may 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, patios, 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 beyond the front of the structure.
- b. Design Standards
  - i. The Neighborhood Cluster Development design standards in Section V.K.3.d.2., 3., 4., 7., 9-12, 15-18 of these Ordinances shall apply to all structures within an AH development.
  - ii. Projects should strive to incorporate alternative energy sources and technologies into the project infrastructure and within the design and construction of all new and redeveloped buildings if feasible.
- 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 common or guest parking in proximity to any clubhouse or other facility serving residents and may be required in off-street parking areas as determined by the Planning Board.
  - iv. No single parking area for amenity structures and/or uses 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 at least every 30 feet along the roadway.
  - iv. Existing healthy native trees shall be retained to the greatest extent feasible. All trees over 10 inch caliper that are 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 determined and approved by the Planning Board.
  - v. Landscaping shall be required to be incorporated within the frontage of each unit and between buildings to provide increased privacy while minimizing the visual elements of 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 and Roadway Construction Standards as the same may be amended from time to time.
  - 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 on one side of each street only.

**6. Workforce and Inclusionary Housing**

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

a. Affordable Housing Unit (AHU)

All AH projects that are approved after January 1, 2019, under the minimum age requirement of 62 years of age shall comply with the requirements set forth in Section V.H of these Ordinances.

b. Workforce Housing Units

- i. The number of Workforce Housing units shall equal 10 percent of the total number of AHU in the project. The first ten Workforce Housing units shall be counted as part of the total number of residential units. Each required Workforce Housing unit above ten shall be added onto the total number of residential units. For example, a project with 100 units the developer shall provide a minimum of 80 units as market rate, 10 units as AHU, and 10 Workforce Housing Units for a total of 100 units. For projects with 110 units, the developer shall provide a minimum of 89 units as market rate, 11 units as

AHU, and 11 Workforce Housing Units for a total of 111 units (the 111<sup>th</sup> unit is the Workforce Housing Unit).

- ii. The Applicant shall be required to provide 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 meet the requirements of an AH development and, where applicable, Workforce Housing or Affordable Housing requirements. 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.
  - iii. Qualified individuals shall be selected through the same process as prescribed in Section V.H, with the exception of filing a Local Initiative Plan (LIP) Application with the State and/or be required to work with Mass Housing to record the units. Applicants shall reference the Planning Board Rules and Regulations for specific requirements relative to the Workforce Housing and AHU process.
  - iv. 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.
  - v. Subsequent owners shall file notice of sale of a Workforce Housing Unit or AHU and shall follow the same process employed when 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.
- c. Affordable Housing Units for Special Permits issued prior to January 1, 2019, with a minimum age of 55 years or older.

An Applicant who has been granted a Special Permit for Active Adult Housing by a Decision of the Planning Board and filed with the Town or City Clerk prior to January 1, 2019, with a minimum age of 55 years or older shall comply with the conditions of the granted decision for the respective project for Inclusionary Housing.

d. Payment in Lieu of Constructing Affordable Housing Units for AH Projects special permit issued after January 1, 2019, with a minimum age of 55 years or older Notwithstanding any provision in the AH Ordinance, an Applicant who is granted a Special Permit for Active Adult Housing by a Decision of the Planning Board and filed with the City Clerk after January 1, 2019, with a minimum age of less than 62 years if age shall make a cash payment for the required number of AHU under Article V.H.3 of these Ordinances. The City of Framingham shall use such funds to construct AHUs within Framingham that are not age restricted and shall be open to all who qualify under Section V.H of these Ordinances. Such requirements of payment in lieu shall be as follows.

- i. The payment shall be made prior to the issuance of a Certificate of Occupancy for each unit that represents 10 percent of the total project.
  - a) For ownership developments, the financial contribution for each affordable unit shall be equal to the difference between the average market sales price for the market-rate units in the subject development and the purchase price affordable to a two-person low income household as defined by the respective years AMI for the Boston-Cambridge Area.

- b) For rental units, the financial contribution for each affordable unit shall be equal to the difference between the average market rental price for the market-rate units in the subject development and the rent affordable to a two-person low-income household as defined by the respective years AMI for the Boston-Cambridge Area. Such funds shall be paid yearly, prior to the start of each calendar year.
- c) Framingham shall utilize the funds to create AHU within close proximity to the project.
- d) The funds for the creation of AHU shall be deposited into a special Housing Account held by the Planning Board and used exclusively for the construction or rehabilitation of new AHUs within Framingham. The Chair of the City Council and Chair of the Planning Board shall jointly provide a recommendation to the Mayor for approval regarding the location of the new affordable housing units and/or the appropriation for the use of such funds. All such recommendations shall be voted during an open public meeting where all three parties are present.

**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 shall remain conservation land 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). In all cases, the terms of the CR, including the nature and extent of public access and provisions for parcel 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 or a charitable corporation or trust whose purpose includes the conservation of land or may be held jointly 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, subject to the approval of the Secretary for the Office of Energy and Environmental Affairs.
- e. All of the above restrictions shall be incorporated into each respective deed as part of the CR.

**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 or filed with the Registry District 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 AH development or by the City of Framingham.

- a. Such age restriction shall limit the dwelling units to occupancy by at least one an adult who must be 62 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 household member for up to two years.

## **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 shall result in possible revocation of the Special Permit, applicable fines from the Department of Inspectional Services, and/or other punitive actions by the City.

## **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-fifths vote where such waivers will allow for better design and/or improved protection of resources.

## **11. Homeowner's Trust or Association**

- a. The applicant shall establish a Homeowner's Trust or Association for the AH Development. The Homeowner's Trust/Corporation shall operate in accordance with a Homeowner's Trust or Association 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 or the release of the dwelling units.
- b. The Homeowner's Trust/ or Association 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.

## **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.