

Adult Housing Ordinance – Comments Edition

AH Ordinance – proposed Adult Housing Ordinance

AHH By-Law – existing Active Adult Housing By-Law

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.

Commented [ALL1]: Definitions have been updated and proposed to be relocated to Section I.E Definitions, a majority originally appeared in the AAH By-Law – several are new based on the rewrite (Dwelling, Workforce Housing)

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 provide compliance with these Ordinances.
- 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.

Commented [ALL2]: Amendment to existing language to exempt AH projects from the requirements of Section V.H – projects are still required to provide affordable units (construction or cash payment), in addition to Workforce Housing units), however, the units cannot be recorded

Affordable Housing Units (AHU) created through an over 55 By-Law/Ordinance cannot be recorded with the State since they prohibit children from living in the units for extended periods of time

I. 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.

Commented [ALL3]: The Purpose/Intent of the AH Ordinance compared to the AHH By-Law has not changed. The regulations intend to

- Est. over 55 communities
- Special Permit from the Planning Board

The new AH Ordinance emphasizes

- create walkable neighborhoods
- allow for amenities that would aid in people aging in place

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, 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

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

Commented [ALL4]: The existing AAH By-Law requires

- A minimum of 10 acres where a parcel has both municipal sewer and water available is required.
- A minimum of 20 acres where a either municipal sewer or water are not available.

Commented [ALL5]: The existing AAH By-Law allows for projects to be serviced by public water and sewer, in addition to private wells and septic

Commented [ALL6]: The existing AAH By-Law requires a 10 and 20 acre minimum area for a project to be considered limits the ability for an Active Adult Housing project to be developed in the Single Family Residential (R-1, R-2, and R-3) Zoning Districts.

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

The proposed revisions decrease the required area, relative to the respective zoning district. R-1 requires 8,000sf lots; R-2 requires 12,000sf lots; R-3 requires 20,000sf lots; R-4 requires 43,560sf lots; and G requires 8,000sf lots pursuant to Section IV.E.2 Dimensional Regulations – therefore this would allow for projects to be completed in other zoning districts other than R-4.

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.

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 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.

Commented [ALL7]: The existing AAH By-Law utilizes the following calculation to determine the number of bedrooms/units

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.

Commented [ALL8]: Subdivision Rules and Regulation was recently updated in 2017, which allows for the City to better review Preliminary Subdivision Plans. Also prior to the submittal of a AH project, the wetland must be delineated, which does not exist in the existing AAH By-Law.

Commented [ALL9]: This is an update from the existing AAH By-Law – the AH Ordinance requires land under a APR or CR not to be counted towards the Preservation Area. Also the presentation area must be taken out of the division of land prior to any preliminary plan being drawn

Commented [ALL10]: Under the revisions the Planning Board reserves the right to decrease the number of preliminary subdivision lots based on four factors – this does not currently exist in the existing AAH By-Law, since the number of units is based on bedrooms rather than lots.

Commented [ALL11]: The proposed AH Ordinance removes one of the lots from the preliminary subdivision plan for amenity structures – therefore, if a preliminary subdivision plan yielded 20 lots, then the number of structures would be based on 19 lots, with the 1 lot being used for amenity areas

Table Two: Division of Land

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

Commented [ALL12]: The existing AAH By-Law used a calculation to determine the number of bedrooms, with a limit of 8 bedrooms per acres of Developable Site Area. The existing AAH By-Law could yield approx. 8, one-bedroom units.

The AH Ordinance limits the number of units to 4 per acre in the R-4, 3 per acre in the R-3, and 2 per acre in the R-1/R-2/G Zoning Districts. This is a number based on what could be developed under a conventional subdivision plan, with a unit bonus per lot, since the units would be smaller and also there is an affordable component.

Commented [ALL13]: Existing AAH By-Law allows for 8 bedrooms per acre. These can be divided into 1 and 2 bedroom units.

Commented [ALL14]: The existing AAH By-Law requires 30 percent as Minimum Common Open Space Area Dedication – this is for all projects (R-1, R-2, R-3, R-4, and G)

Commented [ALL15]: The proposed a) and b) must be completed prior to the preparation of a preliminary subdivision plan

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

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

Commented [ALL16]: Compared to AAH By-Law which requires
 - 75 feet for a side/rear setback
 - 100 feet from public right of way
 - 200 feet from right of way designated as a scenic roadway.

Commented [ALL17]: Existing AAH By-Law only requires 75 foot wide buffer

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 Design²

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

Commented [ALL18]: Existing AAH By-Law
 - 30 feet separation between two sides of a building
 - 80 feet separation between the backs of two structures
 - 50 feet separation between a side of one building and the rear of another

Note: the proposed AH Ordinance creates a dedicated area for private backyards which is needed as found with the PUD and other cluster projects

Note: Increase in building separation increases the amount of land area used – the intent is to cluster the units to create/save more open space

Commented [ALL19]: Existing AAH By-Law limits building height to 2 stories/30 feet.

This is inconsistent with Section IV.E which allows single family houses to be 3 floors 35 feet. The peaked roof of traditional new England houses typically exceeds 30 feet but is under 35 feet

Commented [ALL20]: This is new, this allows for units to be located on individual lots through smaller lot sizes – but ownership in the common open space area

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

Commented [ALL21]: The EUA allows for the units to have their own private space in the rear of the unit

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.

Commented [ALL22]: This is new, this allows for additional uses that may be a feature for residents as they age – the goal is to allow for aging in place

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

Commented [ALL23]: New section based on Planning Board experience with other cluster projects

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

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 accessibility 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.

Commented [ALL24]: The existing AAH By-Law reads “ 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.”

Note: this allows for the original owner to decide how the structure is to be built

Commented [ALL25]: Encouraging these to create community and allow for different unit options

Commented [ALL26]: Updated language – concept is the same as the existing AAH By-Law

- 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.

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

Commented [ALL27]: The existing AAH By-Law requires 10 percent affordable pursuant to Section V.H – however, the State will not record the units in an over 55 development since this prohibits a class of citizens from living in the development (children).

The Planning Board proposed to require 10 percent of the units on site to be Work Force Housing units (60-120percent of the Area Median Income)

Note: Mass Housing has two different numbers on their website 60 percent appears once and 60 percent appears twice. However, based on further research this should be 60 percent (recommend City Council to change during the public hearing process)

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.

Commented [ALL28]: This is a section of question by the Planning Board – 4 members were in favor of allowing 50 percent payment, while one member requested 100 percent.

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.

Commented [ALL29]: Section just updated based on case law and other By-Laws

- 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.

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.

Commented [ALL30]: Existing AAH By-Law has similar language, just updated

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.

Commented [ALL31]: New "unless written approval by the Board of Trustees is granted." This allows for cases to be evaluated by the Board of Trustees rather than the City saying no

Commented [ALL32]: New Section to allow for increased protection of the abutting residents

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.

Commented [ALL33]: This is similar to other cluster by-laws within the Framingham Zoning By-Law.

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

Commented [ALL34]: New section based on Planning Board permitting

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.

Commented [ALL35]: Consistent with other recent Zoning By-Laws.