

REVISED

PLANNING & ECONOMIC DEVELOPMENT COMMITTEE

DECEMBER 6, 2016

7:00 PM

Aldermanic Chamber

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ROLL CALL

PUBLIC COMMENT

COMMUNICATIONS

From: Roger L. Houston, AICP, Planning Director

Re: Nashua City Planning Board's Unfavorable Recommendation – O-16-020

UNFINISHED BUSINESS - None

NEW BUSINESS – RESOLUTIONS – None

NEW BUSINESS - ORDINANCES

**O-16-025**

Endorser: Alderman Richard A. Dowd

**AMENDING THE ZONING MAP BY REZONING THREE LOTS ON AMHERST STREET FROM AIRPORT INDUSTRIAL (AI) TO HIGHWAY BUSINESS (HB)**

- Also assigned to the Planning Board; Favorable Recommendation Issued 12/1/16
- Public Hearing scheduled for 12/20/16 at 7:00 p.m. in the Aldermanic Chamber

TABLED IN COMMITTEE

**O-16-020**

Endorser: Mayor Jim Donchess

**CLARIFYING AND UPDATING THE ELDERLY HOUSING SUPPLEMENTAL USE REGULATIONS**

- Tabled pending Planning Board Recommendation; Unfavorable Recommendation Issued 11/17/16

GENERAL DISCUSSION

PUBLIC COMMENT

REMARKS BY THE ALDERMEN

POSSIBLE NON-PUBLIC SESSION

ADJOURNMENT



## MEMORANDUM

Date: November 23, 2016

To: Ald. Brian S. McCarthy, President, and Board of Aldermen  
Ald. Mary Ann Melizzi-Golja, Chair and Planning & Economic  
Development Committee

From: Roger L. Houston, AICP, Planning Director

RE: Referral from the Board of Aldermen on proposed, O-16-020, clarifying and updating the elderly housing supplemental use regulations.

At the Nashua City Planning Board's regularly scheduled meeting of November 17, 2016 the Planning Board voted unanimously to make an unfavorable recommendation on O-16-020. With following recommendation:

1. There is not enough research and information presented to substantiate the requirement for this change.
2. The change potentially discourages 55+, independently-managed community development.
3. The Planning Board currently has the opportunity and authority to review individual projects under the current Board procedures to deal with these types of situations.

If you have any questions concerning this notification, please contact me at 589-3112.

cc: Mayor Jim Donchess  
Susan Lovering, Legislative Assistant  
Patricia Piecuch, City Clerk  
Adam Varley, Chair, NPCB  
Sarah Marchant, Community Development Director

**PROPOSED  
AMENDMENT TO  
O-16-020**



## **ORDINANCE**

### **CLARIFYING AND UPDATING THE ELDERLY HOUSING SUPPLEMENTAL USE REGULATIONS**

### ***CITY OF NASHUA***

*In the Year Two Thousand and Sixteen*

*The City of Nashua ordains* that Part II “General Legislation”, Chapter 190 “Land Use”, Part 2 “Zoning Districts and Supplemental Use Regulations”, Article VI “Supplemental Use Regulations”, Section 190-42 “Elderly housing” of the Nashua Revised Ordinances, as amended, and Section 190-16 H be hereby further amended by adding the new underlined language and deleting the struck-through language as follows:

**“§ 190-42. Elderly housing.**

*Purpose: To recognize that housing for older persons provides for the diverse and special needs of this group, including the needs for meeting/function rooms and recreational facilities, and attempt to foster development of housing alternatives for older persons with the basic supportive facilities and services.*

- The development of housing for older persons may allow residents the opportunity to enjoy the rights and privileges of ownership and maintenance of private property within the City of Nashua.*
- It is a community goal to promote development of housing for older persons that provides facilities and service offerings typically demanded by this group, and it is also a goal to promote proximity of such development to support services (shopping, medical services, transportation, etc.) necessary to meet the needs of these residents.*
- Housing developed in this section must be established and maintained in compliance with all applicable state and federal laws with respect to such housing and/or medical care, including the Fair Housing Act, as amended, 42 USC § 3601 et seq., and NH RSA 354-A:15 ~~and the NH Code of Administrative Rules, Hum 300 et seq.~~*
- Pursuant to RSA 354-A:15, II and III, it is recognized that prohibitions against housing discrimination do not apply to housing for older persons, which conforms to all applicable rules and regulations.*
- The intent is to foster development of housing for older persons while detailing local planning standards and promoting consistency with land use policies in the Master Plan and the land use laws and regulations.*
- The intent is to regulate the intensity and mix of the different types of dwelling units required to meet the needs of these citizens so as to provide ample outdoor and*

- livable space and to retain a sense of personal identity, intimacy, and human scale within the development.*
- *The intent is to review the bulk, height, and spacing of buildings, and the traffic circulation and parking pattern within the development to ensure that the adequate light, air, privacy, landscaping, and open space for passive and active recreation are provided with the development.*

*The City of Nashua finds, determines and declares that:*

- *There is a recognized need within the City for suitable and appropriate housing for older persons.*
- *Older persons are exclusively people age 55 and older.*
- *According to Demographic Element of the Master Plan the number and proportion of persons 55 years or older will increase significantly during the next several decades, thereby creating an increased demand for elderly housing.*
- *Housing for older persons can be developed to provide housing opportunities for this group and at the same time not detract from the low-density settlement patterns defined by significant open space and a rural community character described in the Master Plan.*
- *It is recognized that exclusive zoning for persons 55 or older promotes the general health and welfare.*

*This section implements the following Master Plan recommendation:*

- *Due to the likely increase in demand for elderly housing, both for independent living and managed care facilities, it is recommended that the Zoning Ordinance be examined and revised, if necessary, to ensure that adequate opportunities to develop elderly housing are available. This is especially important given the projected increase in the senior population over the next 10 to 20 years.*

A. Applicability.

- (1) For purposes of this section, “elderly housing” means any ~~of the~~ housing ~~categories~~ and supportive service facilities ~~described in Subsection A(2) below~~ that ~~complies~~ comply with the provisions of RSA 354-A:15 (Housing for Older Persons).
- (2) ~~Examples of p~~Principal~~Examples of~~ uses or structures that constitute elderly housing ~~include~~include are:

**Table 42-1  
Elderly Housing Classifications**

**Category and Definition**

Retirement housing services  
These establishments offer convenience services but focus on attracting elderly residents so as to provide a social support system mamong residents and may consist of single family detached units catering to those who desire to live independently.

**LBCS  
Function NAICS  
12120**

**Table 42-1  
Elderly Housing Classifications**

**Category and Definition**

**LBCS  
Function NAICS**

***Congregate living services:***

Funded through the 1978 Congregate Housing Services Act, many of these establishments serve meals and other services in low-income and federally subsidized housing. Now, many establishments provide such services to other nonsubsidized housing facilities. Services include housekeeping, laundry, transportation, recreational programs, and other convenience services.

***Assisted living services:***

1230

These services are provided by board-and-care establishments, such as adult foster care homes and adult care group homes. Services include daily activity assistance, such as dressing, grooming, bathing, etc. These establishments may be located in single-family homes and share the house with the care provider's family.

***Life care or continuing care services:***

1240

This subcategory comprises church or social welfare organizations running retirement centers. Residents turn over some or all of their assets in exchange for housing, personal care, convenience care, and some health care. Terms used for such establishments are endowment facilities, founders care facilities, etc.

***Community care facilities for the elderly:***

62331

These establishments are primarily engaged in providing residential and personal care services for (1) the elderly who are unable to fully care for themselves and/or (2) the elderly who do not desire to live independently. The care typically includes room, board, supervision, and assistance in daily living, such as housekeeping services. In some instances these establishments provide skilled nursing care for residents in separate on-site facilities.

***Continuing care retirement communities:***

623311

These establishments primarily engaged in providing a range of residential and personal care services with on-site nursing care facilities for (1) the elderly and other persons who are unable to fully care for themselves and/or (2) the elderly and other persons who do not desire to live independently. Individuals live in a variety of residential settings with meals, housekeeping, social, leisure, and other services available to assist residents in daily living. Assisted living facilities with on-site nursing care facilities are included in this industry.

***Skilled nursing services or nursing care facilities:***

1250

623110

This subcategory comprises establishments that provide twenty-four-hour skilled nursing care. Included are nursing homes and convalescent hospitals for the elderly.

***Homes for the elderly:***

623312

This U.S. industry comprises establishments primarily engaged in providing residential and personal care services (i.e., without on-site nursing care

**Table 42-1  
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**LBCS  
Function NAICS**

**Category and Definition**

facilities) for (1) the elderly or other persons who are unable to fully care for themselves and/or (2) the elderly or other persons who do not desire to live independently. The care typically includes room, board, supervision, and assistance in daily living, such as housekeeping services. These establishments may include assisted living facilities without on-site nursing care facilities, homes for the aged without nursing care, homes for the elderly

without nursing care, old-age homes without nursing care, old soldiers' homes without nursing care, rest homes without nursing care, retirement homes without nursing care, and senior citizens' homes without nursing care.

- (3) Accessory uses for elderly housing may include activity centers for the elderly, senior citizens' centers, or senior citizens activity centers engaged in providing nonresidential social assistance services to improve the quality of life for the elderly, persons diagnosed with mental retardation, or persons with disabilities. These establishments provide for the welfare of these of individuals in such areas as day care, nonmedical home care or homemaker services, social activities, group support, and companionship. (Reference: NAICS 624120)

**B. Where permitted.**

- (1) Elderly housing that contains duplex or multifamily dwellings is permitted as of right in the D, R-A, R-B or R-C Zoning Districts subject to the requirements of this section. Elderly housing in the form of single-family detached dwellings are permitted in the R-40, R-30, R-18, R-9, R-A and R-B Zoning Districts.
- (2) The provisions of this division shall apply only to applications consisting of dwelling units of less than 1,000 square feet each.
- (3) The provisions of this division shall apply only to projects consisting of more than 30 units except that in the case of redevelopment of commercial or industrial sites not having been granted a subdivision or site plan approval within the previous five (5) years the provisions of this division shall apply to projects of not less than ten (10) units. ~~in the case of new development, and more than 10 units in the case of redevelopment of sites which have not received a site or subdivision plan approval in the previous five years.~~
- (4) Any project approved under the provisions of this division shall include common area of not less than 15 square feet per dwelling unit and shall include space which is devoted to providing common services for residents.

**C. Standards.** Applications subject to this section shall conform to the following standards:

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- (1) Permits and phasing. The Planning Board shall approve a site plan if it complies with the standards established below. A building permit shall be obtained for each dwelling unit and each accessory use.
- (2) Compliance. The applicant shall certify at the time of an application before the Planning Board that a development will comply with all applicable rules and regulations established by the New Hampshire Human Rights Commission, for age discrimination in housing, ~~including, if required by the Human Rights Commission, that e~~Every development shall provide significant facilities and services specifically designed to meet the physical and social needs of older persons, ~~or if the provision of such facilities and services is not practicable, that~~

~~such housing is necessary to provide important housing opportunities for older persons, as set forth in NH Administrative Rules Hum 302.03, as the same may from time to time be amended. Furthermore, while the Planning Board will not define what constitutes~~ Examples of significant facilities and services specifically designed to meet the physical and social needs of older persons include, but are not limited to, the following:

- (a) Programs designed to provide a social life for residents;
- (b) Continuing education programs of interest to residents;
- (c) Information and counseling services;
- (d) Recreational programs;
- (e) Homemaker services;
- (f) Services designed to assist residents with the maintenance and upkeep of building and grounds;
- (g) An accessible physical environment;
- (h) Emergency and preventive health care programs;
- (i) Congregate dining facilities;
- (j) Transportation to facilitate access to social services;
- (k) Referral services; and
- (l) Services designed to encourage and assist residents to use the services and facilities available to them.

The applicant must provide assurances and demonstrate to the Planning Board how the applicant will ensure that the proposed significant facilities and services will continue into the indefinite future and that the elderly housing will continue to comply with this subsection.

Information that may be required by the Human Rights Commission in evaluating an application ~~may~~ should also be submitted to the Planning Board, including a description of any applicable provisions of state statutes and the Human Rights Commission administrative rules and regulations, and whether there are requests for exemptions. In the event the foregoing fifty-five-year-old age restriction is determined to be in violation of the laws of the State of New Hampshire, then in order to qualify as housing for older persons, the development must contain an age restriction that complies with New Hampshire RSA 354-A:15, and as the same may from time to time be amended.

- (3) Dwelling unit density. The proposed development shall conform to the density established in Table 42-2 below. A density bonus may also be granted for proposed developments that also conform to § 190-48 (inclusionary zoning).

**Table 42-2  
Elderly Housing Density**

<b>Zoning District</b>	<b>Duplex or Multifamily (dwelling units per acre)</b>
R-40	—
R-30	—
R-18	—
R-9	—
R-A	8
R-B	12
R-C	20
D	20

- (4) Pedestrian traffic. The use of interconnecting walkways, trails and natural walking paths shall be an integral part of the design of any development to facilitate access between common area, groups of dwelling units and open space areas. Easements shall be requested where trails or potential trails on abutting lands may allow for a local connection. Appropriate timing and restrictions may apply. Primary walkways and sidewalks shall meet Americans with Disabilities Act (ADA) requirements. Trails and natural walking paths are exempt from this requirement, but the Board encourages maximizing accessibility to residents.
- (5) Building design. Architectural renderings of a typical unit and all accessory buildings shall be provided which the Planning Board will evaluate in accordance with the site plan regulations to confirm that proposed development is an appropriate scale and arrangement in light of the underlying zoning district, the prominence of the site, viewsheds, adjacent uses and the surrounding neighborhood.
- (6) Safety issues. The following requirements may be amended at the discretion of the Planning Board prior to final approval:

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- (a) Each unit shall have address numbering of contrasting color to the structure, a minimum of six inches in size, and visible from the street and/or driveway.
- (b) In the case of shared driveways, a permanent marker (preferably granite) shall be visible from the street and shall depict by diagram, the location and the number of each dwelling unit. Additional markers shall be placed at any split in the shared portion shall be a minimum of 16 feet in width, a maximum grade of 9%, designed to allow safe access and support the weight of emergency vehicle. Shared driveway designs are subject to Board approval.”

§190-16 H Rear Setbacks. Rear setbacks shall be measured from the rear property line. Notwithstanding the foregoing if any principle structure is oriented such that it does not directly face a public street, the rear setback shall be measured from the property line opposite the front of the structure.

All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

This ordinance shall become effective at the time of passage.