

ARTICLE XX: AMEND CHAPTER 125-57, SENIOR RESIDENTIAL DEVELOPMENT, OF THE PROTECTIVE BYLAW

To see if the Town will vote to amend Chapter 125-57, Senior Residential Development, of the Protective Bylaw, by making the following revisions thereto, or pass any vote or votes in relation thereto.

[Key to revisions; underlining = additions; ~~strike through~~ = deletions]

§125-57 Senior Residential Development

A. Purpose and Intent.

- (1) To address the town's demonstrated need for a variety of housing types, settings, and residential services to meet the needs of people as they age.
- (2) To permit the development of appropriately located, specially designed, and appropriately priced housing for seniors who would otherwise not have such housing opportunities within the town.
- (3) To provide opportunities for Harvard residents to age in place.
- (4) To allow flexibility in land use planning in order to improve site layouts, protect natural features and environmental values, and use land in harmony with neighboring properties;
- (5) To encourage the implementation of "Smart Growth" and sustainable development techniques to reduce land consumption and sprawl, provide for open space preservation, expand housing options, and encourage re-use of existing structures;
- (6) To reduce the typical costs of providing municipal services to residential developments;
- (7) To protect Harvard's rural New England character by permitting the development of residential housing in clusters and village-like settings, in a manner which is in harmony with Harvard's historic development pattern, preserves and protects its natural resources, and is pedestrian friendly.

B. Applicability.

- (1) The Planning Board may approve a site plan or grant a Special Permit for a Senior Residential Development project in accordance with this Section 125-57 based on the requirements of the applicable section below.
- (2) A Senior Residential Development is one that anticipates and is marketed to people age 55 or over or age 62 and older strictly following the U.S. Department of Housing and Urban Development (HUD) requirements (See CRF Title 24, Subpart E, 43 U.S.C. § 3601 *et seq.*, and Massachusetts General Laws Chapter 151B). Specific age-restriction criteria are provided in Section C(2) below.
- (3) Senior Residential Developments are restricted to the criteria and zoning district(s) specified in Section G. below.

- (4) The provisions of this Section are exempt for Accessory Dwelling Units (ADUs), except for Age-Appropriate Design provided in Section E. below.
- (5) Local preference. Age-restricted dwelling units within the development shall be available to all persons meeting the age restriction. However, a plan shall be prepared by the petitioner which shall, to the extent allowable by law, give a preference for age-restricted dwelling units within a development first to Harvard residents, then to immediate family members of Harvard residents and then to the general public.

C. General Compliance.

- (1) A Senior Residential Development proposal must comply with all other applicable Town Bylaws, and the applicable rules, regulations, and requirements of all departments, boards, and commissions, including the special requirements of the Historic District and the Groundwater Protection Overlay District. For development proposed as part of this Bylaw, the provisions of Chapter 125, shall apply in full, except where inconsistent with this section. In the latter case, the provisions of this section shall supersede any such inconsistent provisions.
- (2) Age Restriction - A Senior Residential Development may impose an older persons age restriction set forth in a deed, deed rider, restrictive covenant, or other document that shall be recorded at the Registry of Deeds or registered in the Land Court. The age restriction threshold shall meet the requirements of the Housing for Older Persons Act of 1995 (HOPA).

D. Basic Development Requirements.

- (1) Maximum Number of Senior Housing Dwelling Units in Harvard – The maximum number of housing units within all permitted senior residential developments in the Town of Harvard shall be limited to a number equivalent to 15% of the existing total residential housing units located in the Town of Harvard. For the purpose of this section, the number of residential housing units shall be as established by the Board of Assessors as of January 1 of the calendar year. The Planning Board may waive this limitation if the Board finds that the proposed development fulfills a critical senior housing need for the Town of Harvard or the surrounding region.
- (2) Pace of Development – A maximum of 100 units may be approved by special permit on an annual basis but no more than 30 units may be permitted in any one year. The only new Senior Residential Development units permitted over this cap period shall be accessory dwelling units.

- (3) For any Senior Residential Development over 20 units, the applicant shall be required to pay for an independent fiscal impact analysis, to be contracted by the Planning Board, which shall demonstrate likely revenues generated by the development and the estimated costs of providing municipal services. The Select Board may negotiate and enter into an agreement with the developer or owner of such a facility or development which provides for, among other things, payments to the Town to offset the Town's costs of providing services to the development and/or for the provision of services to the development by service providers other than the Town at the developer's expense.

E. Age-Appropriate Design.

Commented [CR1]: This existing language was in the Assisted Living section but I moved it up here and made it applicable to all larger senior development. However, it sounds a lot like impact fees and that is not currently permitted in MGL except by special legislative action as was done for the Cape Cod Commission. So, this should be looked into.

A Senior Residential Development shall be designed to provide housing options in a setting that encourages and supports aging in community. Units for seniors shall be “visitable” and designed for people as they age. At minimum, these terms mean that a Senior Residential Development shall have the following features:

- (1) At least one (1) zero-step entrance,
- (2) Doorways with a 36-inch clear passage space,
- (3) Master bedroom and an accessible en-suite bathroom located on the same floor as the kitchen, living room, and dining room, all being on the same floor as the zero-step entrance,
- (4) Master bedroom and en-suite bathroom designed and equipped for seniors and people mobility impairments, and
- (5) For developments with three or more units, the following provisions ~~must~~ shall apply:
 - (a) Covered, indoor or structured parking shall be provided, as applicable.
 - (b) Compliance with the applicable accessibility requirements of the Massachusetts Architectural Access Board.
 - (c) Outdoor facilities, such as walkways, gardens, and recreation areas, shall be designed for universal access as provided in the Federal Fair Housing Act and the Americans with Disabilities Act, as amended. Walkways between buildings for campus or village style developments may be required as applicable.
- (6) The Planning Board may modify a specific Age-Appropriate Design element to meet the specific needs of a particular development.

Commented [CR2]: Added flexibility for the Planning Board based on specific application and also addressed covered walkways and parking.

F. Development Standards.

As part of the Planning Board’s site plan and special permit review process, the Board shall evaluate the proposed Senior Residential Development for conformance with design standards as they may be applicable.

Development design shall conform to the requirements of the applicable section of the Harvard Protective Bylaw for the type of development described in Section G. below.

G. Senior Residential Development Types.

This bylaw provides for ~~two (2)~~ three (3) Senior Residential Development types as follows. General provisions covering all developments shall be provided in Sections D through F above. Applicants should also refer to Chapter 125, Sections 38, 39 and 46, as they may be applicable to the application as well.

Commented [CR3]: Changed 2 or 3 and just summarized in list as Justin requested and created sections H. and I below for details. I think this does read better.

- (1) **Accessory dwelling units (ADUs).** Accessory Dwelling Units shall be permitted as per §125-18.1.

- (2) **Assisted living facility.** Communities that offer a multi-faceted residential setting that provides personal care services, 24-hour supervision and assistance, and activities and health-related services for seniors, located within the C district with an ARV-SP special permit. Requirements for Assisted Living Facility developments are provided in Section H below.
- (3) **Continuing care retirement community.** A Continuing Care Retirement Community (CCRC) Village Special Permit shall allow the development of a CCRC **in the C district** as per the requirements of I. below.

H. Assisted living facility.

An assisted living facility may be permitted in the Commercial District as a stand-alone use or as part of a mixed-used development or Continuing Care Retirement Community (CCRC), by Special Permit. The lot on which an assisted living facility is located shall have a minimum land area of 1.5 acres and at least 3,500 square feet of land area for each assisted living unit, inclusive of the 1.5 acres minimum land area, within the Commercial District and shall comply with all dimensional requirements for lots set forth in § 125-29. The maximum building size shall be 55,000 square feet of gross floor area. The following additional standards shall apply:

- (1) At least 50% of the development shall be open space, of which not more than half shall be wetland. The open space calculation may include land within required setbacks.
- (2) Unless otherwise modified by the Planning Board, no building in a CCRC shall be located closer than 100 feet to an AR District boundary, and no parking area or accessory structure shall be located closer than 60 feet to an AR District boundary.
- (3) Permitted accessory structures include maintenance buildings, and other customary accessory structures for use of the residents and staff.

I. Continuing care retirement community village special permit.

(1) Purpose

This Continuing Care Retirement Community Village Special Permit is established by the Town of Harvard in order to achieve the following purposes:

- (a) The provisions of a variety of housing choices for elderly persons by allowing for the development of a Continuing Care Retirement Community (CCRC) scaled to the needs of seniors and compatible in scale with the character of the town.
- (b) The provisions of professional services and amenities routinely used and desired by senior persons.
- (c) The design of site plans and structures adapted to the needs of the senior population.

(2) Applicability

A Continuing Care Retirement Community (CCRC), as defined herein, may be allowed upon a **grant of a Special Permit** by the Planning Board upon any parcel of land:

- (a) **Situated within a Commercial (C) zoning district** as shown on the Zoning Map.

Commented [CR4]: Deleted reference to road classification.

(3) Types of Dwellings, Uses, and Associated Services Permitted

[1] A CCRC may contain any or all of the following housing types, attached or detached, in any combination:

[a] Independent Living:

- i. Detached single-family cottage;
- ii. Two-family or townhouse;
- iii. Multi-family;

[b] Congregate Care: a structure or space within a larger facility which provides a range of housing and support services. The structure may contain, but is not limited to the following uses:

- i. Dwelling units with kitchen facilities;
- ii. Bedrooms with a bathroom and sitting area or without kitchen facilities;
- iii. Common, social, and recreational areas such as dining rooms, libraries, and indoor and outdoor recreation facilities and gardening areas;

[c] Assisted or Catered Living: buildings or structures other than a hospital or nursing home/institution designed to accommodate assistance with one or more activities of daily living, such as dressing, eating, bathing, walking or toileting;

[d] Nursing Care: a facility which must be licensed by the Department of Public Health;

[e] Living quarters for support staff.

[2] A CCRC may contain one or more of the following uses and associated services, **services and activities ancillary and in support of the operation of a CCRC**, individually or in any combination, as part of congregate buildings or as separate structures, including, but not limited to:

- [a] Dining rooms, coffee shops, and related kitchen areas and facilities;
- [b] Living rooms, libraries, music rooms, auditoriums, greenhouses;
- [c] Lounges, card rooms, meeting rooms, and other social and recreational areas;
- [d] Administrative offices, social service offices, educational uses;
- [e] Mail rooms;
- [f] Gift shops, convenience stores, and other retail, not to exceed 7,500 s.f. combined;
- [g] Medical offices, diagnostic and treatment centers, wellness centers, exercise areas, home health care centers;
- [h] Professional offices;
- [i] Barbers, hairdressers, beauty salons, and other personal services, not to exceed 3,000 s.f. combined;
- [j] Banks and ATM banking machines;
- [k] Home health care;
- [l] Adult day health and child care services;
- [m] Cleaning services;
- [n] Community center;
- [o] Indoor or outdoor recreation facilities;
- [p] Conservation or agricultural uses;
- [q] Other uses, as approved by the Planning Board.

(4) Affordability

To assist the Town in creating units eligible for the Chapter 40B Subsidized Housing Inventory through means other than a Comprehensive Permit and to prevent the Town from falling behind in meeting the requirements for Affordable Housing as detailed in Massachusetts General Law Chapter 40B, CCRC projects with greater than ten (10) dwelling units must provide Affordable Housing Units to serve low- or moderate-income households, as follows:

- [1] Percentage of Affordable Units: At least 20% of ownership or rental units must be Affordable Housing Units. At least 20% of rental units must be Affordable Housing Units.
- [2] Living quarters for support staff, if any, are excluded from the Affordable Housing provision.
- [3] Definitions, provisions, and procedures for Affordable Units are governed by the provisions of Section 3.
- [4] Projects with less than ten (10) units but with five (5) or more shall provide a payment in lieu of the provision of a unit equivalent to the assessed value of a one (1) bedroom unit. For example, for an ownership project with eight (8) units, fifteen percent affordability would require 1.2 affordable units. Assuming that the assessed value of such a unit is \$350,000, the developer would submit a payment to the Harvard Municipal Affordable Housing Trust of \$420,000.

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(5) Design Objectives

- [1] Buildings shall be in accordance with an overall master site plan and shall be designed as a single architectural scheme. The Commercial Design Guidelines for the C district shall be applicable to the project and the Design Review Board shall be consulted on the design.
- [2] Structure and site designs which blend the scale of residential units and non-residential uses such as professional office or administrative space, resident services, and other non-residential permitted uses;
- [3] Minimization of traffic impacts and safe design of all ways, vehicular and pedestrian. No individual building within the CCRC may take access directly from any existing public road or street. Project ingress/egress shall be through no more than two (2) access-controlled entrances;
- [4] Maximization of preservation of natural features and the protection of wetlands, scenic vistas and open spaces;
- [5] Structure and site designs which meet the specific needs of the elderly;
- [6] No unit may exceed two (2) bedrooms except that age-restricted independent living units may have up to 25% as three (3) bedrooms;
- [7] Site plan design which visually emphasizes building design and landscaped areas and minimizes the visual impact of parking areas and elements such as refuse collection stations;
- [8] Site plan design which creates open space by using cluster principles. At least 40% of the site shall be preserved as open space and maintained as natural vegetation or landscaped areas. Use of open space, except for natural lands, active and passive recreation, landscape

plantings, footpaths, and agriculture shall be prohibited. Easements may be granted for the installation of underground utilities, provided all disturbed areas be restored to a natural state after construction. A restriction, enforceable by the Town of Harvard, shall be recorded to ensure that such land shall be kept in an open, natural or landscaped state and not built upon for residential use or developed for accessory use such as parking or roadways. A landscape management plan shall be developed with restrictions to provide for maintenance of the open areas in a manner which will ensure its suitability for its function, appearance, cleanliness, and for proper maintenance of drainage, utilities and the like.

- [9] Site and structure design shall provide suitable means of access and egress to dwellings for handicapped persons. Enclosed or covered walkways connecting all buildings shall be permitted.

- [10] Structures shall be located on the site so as to provide for the privacy of residents adjacent to the CCRC.

(6) Site and Dimensional Requirements

Table 1 – Site and Dimensional Criteria

Criteria	Minimum/Base	Maximum
Project Size	Five (5) Acres	Twelve (12) acres
Project Open Space	40% for projects of 5-7 acres and 50% for projects 8 or more acres.	
Useable Open Space (% of total Open Space)		
Density (base/max)	10.0 units/acre gross	
Maximum Number of Units	50	120
Unit Size/Bedrooms/Mix	30% of units	70% of units
<ul style="list-style-type: none"> ▪ Independent Living <ul style="list-style-type: none"> ○ Studio-2BR (75%) ○ 3BR (25%) ▪ Congregate Living ▪ Assisted Living Units ▪ Skilled Nursing Units ▪ Hospice Care 	No Minimum No Minimum No Minimum No Minimum	30% of units 30% of units 15% of units 10% of units
Setbacks and Siting		
<ul style="list-style-type: none"> ▪ Cottages 	Cottages may have exclusive use areas and shall be set back 15' from edge of pavement or sidewalk, 5' from side area boundary and 10' to other cottages, and 15' to rear area boundary or 20' to other cottages. Cottages shall be clustered in a village or hamlet configuration and located no closer than 50' to any other type of building in the development, 50' from the project boundary, and 100' to any external non-residential use.	
<ul style="list-style-type: none"> ▪ Non-Residential Buildings 	Buildings exclusively used for ancillary, administrative, maintenance or other non-residential uses shall be set back at least 100' from AR zoned land, 50' from C zoned land, 50' from any residential cottage, and 25' from any other type of residential or congregate building in the development.	
<ul style="list-style-type: none"> ▪ Independent Living Buildings, Townhouses, Congregate Buildings, and Parking Facilities 	Multifamily independent living buildings, townhouse blocks, and congregate buildings housing a range of residential and non-residential uses shall be set back at least 150' from AR zones land, 50' from C zoned land, 100' from any residential cottage, and 25' from any other building in the development.	
Buffers	A 25' natural buffer shall be installed and maintained adjacent to any AR zoned land.	

Criteria	Minimum/Base	Maximum
Zoning Districts Permitted	Commercial (C)	

[1] Other Dimensional Requirements:

- [a] Maximum number of units allowed provided in Table 1 above. Actual maximum permitted density will be determined by the provision of water and wastewater services in compliance with Title V.
- [b] The number of habitable buildings on a lot and the maximum number of dwelling units permitted per habitable building shall be determined by the Planning Board on a case-by-case basis.
- [c] Non-residential uses: the total area devoted to non-residential uses located in the buildings may not exceed twenty-five percent (25%) of the total area of the living areas.
- [d] The open space requirement is substituted for the more conventional rear and side yard requirements in order to provide flexibility in the protection of natural features; to maintain significant open space areas for the enjoyment of the residents; and to promote a variety of site plans tailored to the needs of the elderly.
- [e] All structures must conform to the Massachusetts Building Code with respect to building separation and fire walls.
- [f] Location and design of all structures shall be reviewed by the Harvard Fire Chief with regard to accessibility of fire and other emergency vehicles.
- [g] Disposal areas shall be located in screened areas according to law standards contained in this Bylaw.

(7) Roadway, Parking, and Circulation Requirements

- [1] The following minimum parking standards shall apply to CCRC facilities approved under this section of the Bylaw. The Planning Board may waive the construction of parking until it is demonstrated that it is actually needed. Parking areas shall be designated as either to be constructed at the time of building construction or at a future date when it is demonstrated that it is needed. Where there is a mix of uses, the total parking area for the CCRC must equal or exceed the sum of the minimum requirements required by the following:
 - [a] There shall be provided a minimum of one and one-half (1.5) parking spaces for independent and congregate living units except as follows:
 - i. Assisted living facilities: One (1) parking space for every five (5) beds and one (1) parking space for each employee on the largest shift.
 - ii. Nursing Care facility: One (1) parking space for every twenty (20) beds and one (1) parking space for every employee on the largest shift.
 - [b] The Planning Board shall have the discretion to waive the applicant's compliance with these parking requirements, provided that the applicant's plans demonstrate the capacity to fully comply with all other requirements of this Section.

[c] Roads and utilities shall be designed and constructed in conformance with the Town of Harvard Site Plan review standards. The Planning Board may modify said standards if it determines that such action will more acceptably meet the purposes of this section.

[2] A CCRC shall provide internal pedestrian circulation with sidewalks or multi-purpose paths meeting or exceeding Americans with Disabilities Act minimum requirements. Such pedestrian facilities shall serve as an internal site circulation system for residents, visitors, and staff connecting all building entrances to the system. It shall also externally connect to any municipal pedestrian network.

(8) Sewerage Disposal

No special permit for a CCRC may be granted unless the proposed developer has designed a plan in compliance with 310 CMR 15.000: Septic Systems ("Title 5") and its successors, and standard Board of Health regulations for the number of bedrooms being served by the system or connected to a municipal sewer system.

(9) Public Safety

The Planning Board shall require all CCRC applications to include statements, drawings and/or plans indicating that all applicable public safety devices (including fire safety and suppression devices) have been provided as required by law.

(10) Signs

Shall be regulated by §125-41 of the Protective Bylaw.

(11) Other Provisions

[1] Restrictive Covenants – A Declaration of Restrictive Covenants must be approved by the Town and recorded at the Worcester County Registry of Deeds. Said Declaration shall provide all of the restrictions necessary to assure that a proposed development will operate as depicted on the Site Plan and be in compliance with the Federal Fair Housing Act amendments of 1988, as it may also be subsequently amended, and the provisions of MGL Chapter 93, §76 and all other federal, state, and local laws and regulations related to senior housing, housing, and other applicable provisions.

[2] Executive Office of Elder Affairs Submittal

(12) Procedure

[1] Pre-Application Review: The applicant shall submit a pre-application packet to the Planning Board consisting of a sketch plan and narrative, in sufficient detail for the Board and other review participants to develop feedback to the applicant, so that a formal application can be complete and has a greater likelihood of success. The deliverable resulting from this review will be a letter or memorandum listing all of the comments and recommendations from the reviewing parties. At the applicants' request, the pre-app review committee can meet with the applicant to discuss the findings in the letter.

[2] Preliminary Plan: The applicant shall submit a preliminary site plan package to the Planning Board for its review and recommendations which shall contain the following:

[a] Preliminary site plan developed by a registered civil engineer or landscape architect.

- [b] Project narrative that includes how applicant meets all of the provisions of this Section and §§125-38, 39, and 46 of this Bylaw and Chapter 133 of the Code of the Town of Harvard.

The applicant shall be required to meet with the Planning Board to discuss the package including the provisions of this Section and other referenced sections; the elements of the proposed development; and the requirements and specific provisions of the preliminary site plan.

- [3] Design Review Board: Once a Preliminary Plan approval has been secured, the applicant must submit a project design program to the Design Review Board based on the procedures in §133-57 of the Town of Harvard Bylaws and incorporate the Commercial Design Guidelines (October 2016) adopted by the Planning Board. As this project type requires a Special Permit, the Commercial Design Guidelines shall be mandatory.
- [4] Full Site Plan and Special Permit: The applicant will be required to submit a full special permit and site plan application packet in accordance with the applicable provisions of §125-38 and -39 and §125-46. The Planning Board may issue a special permit if it determines that all of the applicable requirements for the CCRC have been met and the full site plan is generally consistent with the preliminary site plan.