



AGENDA ITEM #: 23-40
COUNCIL MTG OF: April 18, 2023
FROM: Dave Caron, Town Administrator
OFFERED BY: Planning Department
PREPARED BY: Elizabeth Robidoux, Planning & Economic Development Assistant
SUBJECT: Revisions to the Derry Zoning Ordinance, Article XIX

STAFF REPORT
Public Hearing 5/2/23

INTRODUCTION:

To amend Article XIX, Independent Adult Community Overlay District, specifically provisions related to the age of residents in these districts and general development standards. The purpose of the amendment is to bring the Town into compliance with HB 1661.

TOWN ADMINISTRATOR COMMENTS

The Council is urged to accept these recommendations after the May 2, 2023 public hearing to bring the Town into compliance with HB 1661.

BACKGROUND

HB 1661, signed into law by Governor Sununu on June 24, 2022, amended RSA 674:17 as follows: IV. If a municipality allows an increased density, reduced lot size, expedited approval, or other dimensional or procedural incentive under this section for the development of housing for older persons, as defined and regulated pursuant to RSA 354-A:15, VIII, it shall allow the same incentive for the development of workforce housing as defined in RSA 674:58, IV. Beginning July 1, 2023, incentives established for housing for older persons shall be deemed applicable to workforce housing development, regardless of whether a local land use ordinance or regulation specifically provides for their application to workforce housing development.

DISCUSSION

The new law initiated a review of the existing Independent Adult Community Overlay District. To see where there may be potential impediments for a Workforce Housing development. During review, it was found the Town was not in compliance with State Fair Housing law with regard to familial discrimination. The Board allowed adult communities of those aged 55 or older and excluded residents under the age of 18 for more than 90 days in any calendar year. The Board first corrected this by removing the under 18 restriction and adding a provision for developments comprised of those solely aged 62 or older. For a second category of Adult Communities with those aged 55 and older, 80% of the occupied units must be occupied by at least one person aged 55 or older and the remaining 20% of units in the development would not have an age restriction. In the Independent Adult Community Overlay, the lots are a minimum of 4 acres, half of the land

is placed in open space, single family detached dwellings and townhomes are permitted and, if the lot has municipal water and sewer available to it, there is a density bonus of 1.5 units. The density bonus would apply to any Workforce Housing development proposal. Legal Counsel reviewed the proposed amendments and believed the Planning Board members vetted the proposed amendments thoroughly and did not see any unintended consequences.

FISCAL IMPACT

The proposed changes would not negatively impact the Town budget.

NA.

RECOMMENDED ACTION BY COUNCIL

Staff recommends that the Town Council approve the attached revision to the Derry Zoning Ordinance as unanimously approved by the Derry Planning Board on April 05, 2023.

RECOMMENDED MOTION

Please see Ordinance #2023-001

* * * * *



ORDINANCE
Number 2023-001

Amend Zoning Ordinance to Adjust Age Requirements in the
Independent Adult Community Overlay District

WHEREAS, Section 5.1 of the Town Charter designates the Town Council as the governing and legislative body of the Town, and pursuant to Section 6.1, the Council shall legislate by ordinance; and

WHEREAS, the State Legislature enacted HB 1661 during the 2022 session which amended RSA 674:17 impacting the Town's Independent Adult Community Overlay District, and

WHEREAS, the Planning Board reviewed the impact of this law and recommends revision to Article XIX of the Town's Zoning Ordinance; and

WHEREAS, adoption of this amendment would encourage the continued orderly development of the community;

NOW, THEREFORE, THE TOWN OF DERRY ORDAINS that the Derry Zoning Ordinance is hereby amended as follows:

To AMEND Article XIX Independent Adult Community Overlay District by:

- 1) Increase the age of age-restricted developments to 62 years of age or older; and
- 2) For those developments classified as aged 55 and older, 80% of the units must be occupied by at least one person aged 55 or older and the remaining 20% of the units would not have any age restrictions.

Adopted: May 2, 2023

Attest:

X _____
Charles Foote, Council Chair
Date: _____

X _____
Cristina Guilford, Town Clerk
Date: _____