

ORDINANCE 09-21

ORDINANCE OF THE BOROUGH OF ROCKAWAY  
MAYOR AND COUNCIL

AMENDING CHAPTER 169 (LAND USE ADMINISTRATION AND PROCEDURES), CHAPTER 171 (LAND SUBDIVISION AND SITE PLAN REVIEW), AND CHAPTER 172 (ZONING) OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF ROCKAWAY, AND ESTABLISHING STANDARDS FOR "SENIOR HOUSING (AHO-S)" DISTRICT IN THE BOROUGH

WHEREAS, the Borough Council of the Borough of Rockaway desires to create a realistic opportunity for the creation of affordable housing within the Borough; and

WHEREAS, the Borough Council has determined that certain land within the Office Business (O-B) Zone and Single-Family Residential (R-1) with an affordable housing (AHO-6) overlay commonly referred to as Block 73, Lot 65 (hereinafter "the Property") are suited for the development of a senior housing apartment for affordable housing; and

WHEREAS, senior housing apartment are not permitted within the Office Business (O-B) and Single-Family Residential (R-1) or the Affordable Housing-6 (AHO-6) overlay and therefore the Zoning Ordinance must be amended in order to implement and comply with the pending settlement agreement to which the Borough will be a party;

WHEREAS, pursuant to N.J.S.A. 40:55D-62(a), reasonable consideration must be given to the character of each district and its suitability to particular uses, and appropriate uses must be encouraged; and

WHEREAS, introduction of a senior housing apartment within the existing O-B Zone and Single-Family Residential (R-1) with AHO-6 overlay would only be appropriate under certain circumstances, this sort of development would most appropriately be incorporated a separate affordable housing overlay within the O-B Zone and Single-Family Residential (R-1);

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of Rockaway in the County of Morris and the State of New Jersey that under Chapter 172, Zoning, of the General Code the Zoning Map be changed for Block 73, Lot 65, as depicted on the attached Exhibit A, from Office Business (O-B) Zone and Single-Family Residential (R-1) or the Affordable Housing-6 (AHO-6) overlay to Office Business (O-B) Zone and Single-Family Residential (R-1) or the Affordable Housing-Senior (AHO-S) overlay; and that the following be added or amended:

Section One: Article I, Subsection 169-4 (Definitions) of the Revised General Ordinances is amended and supplemented by adding the following new definition:

*"Senior Housing, Apartment. A multi-family apartment exclusively for age-restricted units (see Age-Restricted Unit in Chapter 88-2, Affordable Housing) such that: 1) all the residents of the development wherein the unit is situated are 62 years of age or older; or 2) at least 80% of the units are occupied by one person who is 55 years of age or older; or 3) the development has been designated by the Secretary of the U.S. Department of Housing and Urban Development as "housing for older persons" as defined in Section 807(b)(2) of the Fair Housing Act, 42 U.S.C. § 3607*

Section Two: Article III, Subsection 171-17.A.1 (Off-street parking, traffic aisles and driveways) of the Revised General Ordinances is amended and supplemented by adding the following:

<i>Housing Unit Type and Size</i>	<i>Required Off-Street Parking Spaces per Unit</i>
<i>Senior Housing, Apartment</i>	<i>1.0 per unit, plus 1.0 per maximum number of employees per shift, 1.0 for every 5 units for visitor parking, plus one oversized parking space (8' x 40') for bus, shuttles, deliveries, etc.</i>

Section Three: Article I, Subsection 172-3 (Zone Districts) of the Revised General Ordinances is amended and supplemented by revising and adding the following:

*For the purpose of this chapter, the Borough of Rockaway is hereby divided into 12 standard zone districts and **one three** overlay zone districts known as:*

***AHO-6 Affordable Housing Overlay - 6***

***AHO-15 Affordable Housing Overlay - 15***

***AHO-S Affordable Housing Overlay — Senior***

Section Four: Article XIV, Subsection 172-97.A (Designation of Affordable Housing Zones) of the Revised General Ordinances is amended and supplemented by revising and adding the following:

***AHO-6 Affordable Housing Overlay District***      ***Block 27.02, Lot 7; Block 73, Lots 59.01***

***AHO-S Affordable Housing Overlay District***      ***Block 73, Lot 65***

Section Five: Article XIV, Subsection 172-97.B (Designation of Affordable Housing Zones) of the Revised General Ordinances is amended and supplemented by revising and adding the following:

*All developments in the AHO-6, and AHO-15 and AHO-S overlay zones shall comply with Site design and performance standards, § 172-56 of the Borough Code unless otherwise discussed herein.*

Section Six: the following section shall be created to incorporate the new "Permitted principal uses for AHO-S" under Article XIV, of Chapter 172-98.1 of the Revised General Ordinances, which shall contain the following subsections:

***The following shall be permitted principal uses in the AHO-S District:***

***A. Senior Housing, Apartment.***

***The following shall be permitted accessory uses in the AHO-S District:***

***A. Accessory uses permitted in Subsection 172-100, with the exception of 172-100.A, whereas signage shall conform to 172.105.T***

***B. Indoor and outdoor amenity/recreation facilities***

***C. Management and/or leasing offices***

***D. On-site caretaker unit (one)***

***E. Typical maintenance and utility uses***

Section Seven: Article XIV, Subsection 172-101 (Low- and moderate-income housing requirements) of the Revised General Ordinances is amended and supplemented by revising and adding the following:

***A minimum of 20% of the total number of units constructed within the AHO-6, and AHO-15 and AHO-S Districts shall be affordable low- to moderate-income households per N.J.A.C. 52:27D-329.9. When calculating the required number of affordable units, any computation resulting in a fraction less than 0.5 shall be rounded down; any computation resulting in a fraction of 0.5 or greater shall be rounded up; provided, however, that a minimum of one affordable unit shall be required as part of any project constructed within the AHO Districts having at least five residential dwelling units. Low- and moderate-income housing shall be constructed in accordance with Chapter 88, Affordable Housing.***

*Dwellings constructed for low- and moderate-income households shall be governed by thirty-year (30) deed restrictions (see N.J.A.C. 5:93-5.16) ensuring long-term affordability controls.*

Section Eight: the following section shall be created to incorporate the new "Requirements for Senior Housing Apartment in AHO District" under Article XIV, of Chapter 172-105 of the Revised General Ordinances, which shall contain the following subsections:

*The following requirements shall apply to all senior housing apartment developments within the AHO Districts:*

- A. Height. No building containing senior housing apartment units shall exceed three stories or 38 feet in height. Buildings containing senior housing apartment units shall have a gable or sloped roof residential in character. Notwithstanding the foregoing, a portion of said roof shall be permitted to be flat to accommodate rooftop equipment. Height shall be measured from the average elevation of the proposed finished grade at each corner of the building next to the foundation to the mean height of a gable roof. A minimum roof pitch of 5:12 shall be provided.*
- B. Height of Rooftop Equipment. Maximum building height shall not include roof-mounted appurtenant structures, fixtures and equipment, including but not limited to chimneys, antennas, HVAC equipment, tanks, cupolas, and similar projections if such structures comply with the following:
  - (1) Rooftop mechanical equipment not to exceed 15% of roof area.*
  - (2) Shall be setback minimum 10' from front and side building perimeter, and 5' from any rear building perimeter.*
  - (3) Any rooftop equipment shall not exceed 10' height and must be screened/treated architecturally in materials/colors that complement building facade to reduce visual impact*
  - (4) Any equipment that does not comply with above must be included in overall building height.**
- C. Story Height. Minimum story height shall be 9'.*
- D. Lot Area. Each development shall have a minimum lot area of 6.5 acres.*
- E. Lot Width. Minimum lot width of 300'.*
- F. Lot Depth. Minimum lot depth of 100'*
- G. Side Yard - Principal. 50 FT*
- H. Front Yard - Principal. 50 FT*
- I. Rear Yard - Principal. 50 FT*
- J. Building Coverage. 10%*
- K. Lot Coverage. 30%*
- L. Accessory Structure and Parking Setback 10' from all property lines.*
- M. Maximum Density. 11 un/ac for a total of 70 maximum units including one accessory on-site caretaker unit if approved by the Board.*

**N. Parking and Loading.**

- (1) *Each Senior Housing, Apartment development shall provide 1.0 space per unit, plus 1.0 per maximum number of employees per shift, 1.0 for every 5 units for visitor parking, plus one oversized parking space (8' x 40') for bus, shuttles, deliveries, etc. Parking in the 50' front yard setback shall not exceed 40% of the required parking spaces. Pursuant to N.J.A.C. 5:21-4.14(c), the Borough is accepting these parking standards as standards that better reflect local conditions and characteristics of Senior Housing, Apartment developments.*
- (2) *Loading spaces shall be permitted in the front yard.*

**O. Unit Sizes. All dwelling units shall conform to the following minimum floor area requirements:**

- (1) *1-Bedroom Units: 650 square feet.*
- (2) *2-Bedroom Caretaker Unit: 850 square feet.*

**P. Architecture. The architecture employed shall be aesthetically congruous with the surrounding area, as approved by the Land Use Board**

- (1) *The exterior of building wall shall be of high-quality and durable building materials as permitted by the Uniform Construction Code and as approved by the Land Use Board. Exposed cinder block shall not be used for the exterior facing of any structure.*
- (2) *The exterior of all accessory structures shall harmonize architecturally with and be constructed of materials of a like character to those used in principal structures.*
- (3) *All stairways shall be constructed and contained within the apartment buildings.*
- (4) *Walls separating dwelling units shall be constructed as 1HR rated fire partitions with sound attenuation, as required by the 2018 International Building Code: NJ Edition.*
- (5) *To ensure an articulated facade, one of following architectural elements must be provided: 1) At least every 35' the building will step forward or backward at least 5' OR 2) At least every 51' of the main building façade along West Main Street will step back or forward at least 2', with an average change of 3', plus a step forward of at 10' least for the 20-30' width around and at the building entrance.*
- (6) *Building facades shall have the following minimum transparency requirements:*
  - a. *Front façade: 20%*
  - b. *North and south façade: 17%*
  - c. *Rear façade: 20%*
- (7) *The main building entrance shall be prominently designed, with roof cover.*

**Q. Utilities. Each development shall be connected to the public sanitary sewer and water systems, as approved by the Borough Engineer. Fire hydrants shall be installed by the developer in adequate numbers and at locations recommended by the Borough Engineer. All proposed utilities (including transformers, HVAC, generators, telecommunication equipment) shall be located in a way that is visually unobtrusive. Utilities shall be located to the rear or side of the principal structure. All utilities shall be screened so as to not be visible from the public right of way. All new electric and telecommunications connections shall be installed underground.**

**R. Facilities.**

- (1) *Minimum of two bathroom facilities for common use shall be provided on first floor.*
- (2) *Total amenity areas shall be a minimum of 100 SF per bedroom and must include at least 25% of amenity space indoors and 25% of amenity space outdoors. Outdoor space may include accessible lawn area, decks, patios, terraces, or similar amenity space and shall be available to and accessible to each unit*

- a. Indoor amenity areas must consist of at least one "Flex community room" with communal kitchen appliances and seating that can used for gatherings, events, or activities.*
- (3) Indoor amenity areas must also contain least one of the following:*
- a. Fitness center/gym.*
  - b. Business center (computers, printers, conference rooms, etc.).*
  - c. Dedicated "health rooms" for on-site health care visits.*
- (4) Outdoor amenity areas must consist of at least:*
- a. Seating accommodation for at least 0.25 seats per bedroom or 0.50 linear feet of bench per bedroom. At least fifty percent shall be in shade.*
  - b. One active recreation area, which may include outdoor exercise equipment, swimming pool, and/or bocce court.*
  - c. One passive recreation area, which may include walking path, gardening areas, chess/checker tables, gazebos, library, butterfly garden, and/or outdoor living rooms/firepits.*
  - d. In addition, outdoor amenity areas may also consist of personal patios, personal decks, personal balconies, and additional active/passive recreation area. Notwithstanding the foregoing, such structures are not required and shall only be counted towards outdoor amenity space if such structures are proposed.*
  - e. Outdoor amenity areas must be setback a minimum of 15' from all property lines, will be enclosed and screened by fencing or landscaping as approved by the Board. Walking paths are exempt from setback and screening requirements.*
- (5) Bicycle parking required per Ordinance may be included in the total amenity space, either located indoors or outdoors.*
- (6) The facility may have at least one on-site maintenance/caretaker unit.*

**S. Landscaping.**

- (1) A landscape yard buffer shall be a minimum of 5 feet along the length of the property with building or parking improvement area. No structure, storage of materials or parking of vehicles shall be permitted within a buffer, with the exception of a permitted ground sign.*
- (2) All driveways and paths shall be buffered on both sides by 3' wide landscaping where appropriate, not including parking spaces abutting sidewalks/walkways.*
- (3) All outdoor areas shall be landscaped as required by the Land Use Board at site plan approval. All parking, service and storage areas for trash and recyclables shall be adequately screened and shielded from public right-of-way and located on the site as approved by the Land Use Board.*
- (4) Interior development roadway and pedestrian walks shall be provided with shade trees. Areas along the side of pedestrian walks shall be graded and seeded to provide a thick stand of grass or other plant material ground cover. Entrances and approaches to building structures and entrance areas shall be attractively shrubbed.*
- (5) Landscape buffering of at least 4 feet or solid fencing or wall shall be provided around parking areas visible to public right-of-way at no less than 50% opacity to a height of four feet after five years of growth. This shall exclude sight lines.*
- (6) Invasive species shall not be permitted.*

**T. Refuse.** *Refuse shall not be located in any required front yard or buffer. All outdoor refuse shall be visually screened within a durable, non-combustible enclosure, so as not to be visible from adjacent lots or sites, neighboring properties or streets. Screening may be accomplished through the use of planting buffers, fences or walls, and shall be high enough to screen these structures.*

*U. Signage.*

- (1) Maximum of one façade sign with residential building name, with a maximum 20 SF in area. Externally illuminated or backlit channel letters only.*
- (2) Maximum of two ground signs, either 2-post-wood-freestanding, monument style, or post and arm, or approved equal. Externally illuminated or backlit channel letters only. Maximum sign area of 20 SF per sign, total sign height up to 6' including monument base. No electronic/neon/flashing messaging. Minimum setback of 1' from front property line (10' from curb line), and minimum setback of 10' from side/rear property lines.*

*V. Lighting.*

- (1) Site lighting shall be provided and all wiring shall be laid underground.*
- (2) All lighting fixtures shall be downward facing and full cut-off, and all nonessential lights shall be turned off overnight.*
- (3) Maximum mounting height of all lighting fixtures shall be no more than 12' in front yard, and 15' in side and rear yard. No 15' lights can be within 30 feet of the building.*
- (4) No flashing, laser, searchlight, strobe, tracing, pulsating, or neon exterior lighting is permitted.*
- (5) Maximum color temperature should be 3,500°K.*
- (6) Outdoor lighting levels and illumination shall meet the following average maintained horizontal footcandles measured at average point of illumination between 4 and 5 feet above grade:
  - a. Property Line (Maximum): 0.5 footcandles at side/rear property line and 3.0 footcandles at sidewalk frontage.*
  - b. Property Line (Maximum): 1 footcandle at front property line and 3.0 footcandles at sidewalk frontage.*
  - c. Parking and Driveway Area: 1- 3 Footcandles.*
  - d Residential Entrance (Fully Shielded Luminaire): 3-5 footcandles. e. Building Façade (Maximum): 3 footcandles.**

*W. Sustainable Design. Applicant should employ at least one sustainable design feature:*

- (4) Electric vehicle charging stations or electric conduits to facilitate future electric vehicle charging stations.*
- (5) Energy efficient windows and appliances.*
- (6) Rainwater harvesting such as rain gardens and bioswales.*
- (7) Green walls or green roofs.*
- (8) Solar panels on building roof*
- (9) Efficient LED lighting.*

*X. Driveway and Walkway Design Standards*

- (1) Driveways shall not exceed a grade of 8%.*
- (2) Walkways shall have a minimum grade of 1% and a maximum grade of 8%.*

- Y. Retaining Walls.** *The maximum permitted exposed height of a single retaining wall shall be 10 feet. Notwithstanding the foregoing, a portion of the retaining wall may be permitted up to 12 feet in height for a length not to exceed 100 linear feet, if necessary due to the grading adjacent to the corner of Block 73, Lot 66's south and west property line, provided that such wall permitted up to 12 feet must be either the first wall in a tiered system or the only wall in that portion of the Property. Tiered retaining walls are permitted and shall be spaced a minimum of 5 feet apart, measured face-to-face. The aggregate height at any one point of tiered retaining walls shall not exceed 35 feet, measured from the finished grade at the bottom of the lowest wall to the top of the highest wall. Fences shall be permitted on top of a retaining wall but shall not be included in calculating the height of the retaining wall. Walls over 6 feet in height shall be setback from property lines by at least 10 feet as measured from the face of the wall. No retaining wall shall be set back closer than 20 feet to the right-of-way. All retaining walls shall be architecturally treated so as to enhance their appearance to the reasonable satisfaction of the reviewing land use board and its professionals.*
- Z. Site plan approval.** *Prior to the issuance of any building permit, pursuant to this chapter, a site plan of the entire project as required in Chapter 171 shall be approved by the Land Use Board.*
- AA. Relationship to Other Ordinances.** *In any instance in which these regulations and standards address a particular land development control, these regulations and standards shall supersede those in the Borough of Rockaway Code.*
- BB. Exemptions.** *Development within the AHO-S Zone shall be exempt from the requirements of Chapter 170, Article V Tree Conservation and Protection. Development within the AHO-S Zone shall be conditionally exempted from Chapter 170, Article II Soil Disturbance; and Article I, § 170-5 Steep Slopes and Critical Slopes, subject to the following requirements: 1) slope disturbance shall be reviewed by the Borough Engineer during site plan review, to determine whether there is adequate stabilization during and after the construction process; 2) slope disturbance shall be in accordance with the NJ Sediment and Soil Erosion Control manual; 3) proof of insurance for all blasting, drilling, excavation, and any damage for off-site properties during the construction process must be provided; and 4) slope disturbance is restricted to areas as approved by the Land Use Board during site plan review.*

Section Nine: This ordinance shall take effect upon publication and filing with the Morris County Planning Board after final adoption, as provided by law.

DATE: March 11, 2021

BOROUGH OF ROCKAWAY

ATTEST: Kimberly Cuspilich, Acting Borough Clerk

BY: Thomas Mulligan, Mayor

#### CERTIFICATION

I, Kimberly Cuspilich, Borough Clerk of the Borough of Rockaway, in the County of Morris, do hereby certify that the foregoing is a true and correct copy of an ordinance adopted by the Mayor and Council at a meeting held on April 8, 2021.

Kimberly Cuspilich  
Acting Borough Clerk

“Exhibit A”

