

Amended 12-7-2022

Amended 1-3-2023 moved to ballot

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Proposed Zoning Amendment 2023-04

Article IV

Planned Developments

§ 190-4.0 **Mobile home parks and subdivisions.**

- A. General. The use, rental or maintenance of mobile homes or house trailers shall be permitted within the Town of Rye only in approved developed park sites and mobile home subdivisions or under temporary permits as per § **190-4.0H**. [**Amended 2018**]
- B. Special exception required for mobile home parks. Mobile home parks are permitted only as a special exception authorized by the Board of Adjustment. [**Amended 3-10-2020 by Art. 3**]
- C. Criteria for special exceptions. The Board of Adjustment shall not grant a special exception for a mobile home park unless all of the following criteria are met ***in addition to those criteria set forth in §190-7.1(A)(3)***: [**Amended 3-10-2020 by Art. 3**]
 - ~~(1) Planning Board approval. The Rye Planning Board must certify its approval in writing, indicating that the proposed park is in harmony with the purposes of the Town of Rye Master Plan.~~
 - (2) Tract size. No mobile home park shall be located on a tract of less than 10 acres.
 - (3) Location. No mobile home park shall be located on a tract that is:
 - (a) ***Inaccessible from streets that are in sufficient layout and condition so as to provide access to the mobile home park or, after construction, may adversely impact the quality or condition of the road.*** ~~Inaccessible from good roads.~~
 - (b) Close to ***wetlands***, swamps, or other potential breeding places for insects and rodents.
 - (c) On poorly drained land.
 - (d) On land subject to flooding, erosion, fire, safety or traffic hazards.
 - (e) On land which is exposed to chronic nuisances such as noise, smoke, fumes and odors.
 - (4) Interior access.
 - (a) No park site shall be developed unless adequate access for trailers and attached vehicles, fire-fighting equipment, fuel delivery, refuse collection and other service vehicles is provided. Where the park site or individual trailer parking spaces do not abut directly on a

street, paved access roads, located within not less than thirty-two-foot right-of-way, shall be provided.

- (b) The area of every park site shall be large enough to provide for the designated number of individual trailer spaces, necessary access roads and service streets, adequate parking for motor vehicles, and essential service, play, maintenance, and office facilities.
- (c) Every access road and service street within a park site shall have a pavement width of not less than 20 feet, shall have a well-drained stabilized or paved surface, maintained in good repair, and at night well-lighted; provided, however, that where parking is permitted on one side of the street only, the total width of such *paved surface streets* shall be not less than 26 feet, and that where parking is permitted on both sides of the street, the total width of such *paved surface street* shall not be less than 32 feet.

(54) Spatial requirements.

- (a) Area. No individual mobile home or trailer space shall contain less than the greater of 15,000 square feet or the area required by New Hampshire Administrative Rules Chapter Env-Wq 1000. The bounds of each space shall be clearly marked.
- (b) Yards. No mobile home and trailer shall be parked less than 10 feet from the side of any individual trailer space, and there shall be not less than 20 feet between any two trailers. No trailer, vehicle, or building in any trailer park shall be located less than 100 feet from any residential building located on any adjacent lot or from the center line of any street.
- (c) Parking area. Not less than 150 square feet of motor vehicle parking space shall be provided in every park site for each individual trailer or mobile home space in addition to minimum trailer space requirement, and all such spaces shall have a well-drained, stabilized, or paved surface, maintained in good repair.
- (d) Laundry area. Not less than 150 square feet of laundry drying space shall be provided in every park site for each four individual mobile home or trailer spaces, and all such space shall have a well-drained stabilized or paved surface, maintained in good repair.
- (e) Play area. Not less than 100 square feet of play space for each individual mobile home or trailer space shall be provided and restricted in every park site exclusively to playground use. *Such, and such* spaces shall be protected from streets and parking areas, and shall have a well-drained, stabilized or paved surface, maintained in good repair, ***and shall be located in a manner that is accessible to the other mobile home and trailer spaces.***

- (65) Utility and sanitation requirement. No mobile home or trailer shall be without adequate hygiene and sanitation facilities. Water supply service, plumbing, sewage disposal and treatment, electric power service, bottled gas service, heating equipment and fuels, refuse and garbage storage and disposal, and insect and rodent control shall be provided in full conformity with the applicable provisions of the Building Code¹ and all pertinent state and local water pollution, building and health regulations, ordinances and statutes.

[1] Editor's Note: See Ch. 35, Building Code.

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(76) Drainage. Each space shall be well-surfaced or seeded to provide adequate drainage beneath and adjacent to any trailer parked thereon.

(87) Bond. Prior to approval of a plan for a mobile home park, the developer must post an adequate bond with the Town assuring that the park and its sites and ~~roads~~ **Roads all infrastructure, and required landscaping** are constructed in conformance with such plans, specifications and requirements. The Town Counsel shall review said bond prior to its acceptance, and the mobile home park approval shall not be issued prior to approval of the bond by Counsel. **The Planning Board may impose additional bonding requirements per the Town's Development Regulations.**

D. Foundation and additions prohibited. No permanent additions, skirting, foundations, lean-tos, sheds, or rooms shall be permitted; provided, however, that open porches with awnings may be installed. Trailer wheels shall not be removed, although stands and/or stabilizers may be added. In the event that wheels are removed, permanent skirting installed, or the trailer attached permanently to the ground, the trailer shall immediately become subject to all the provisions of the **Town Building Code**². ~~No Excessive~~-materials shall not be stored under any trailer.

[2] Editor's Note: See Ch. 35, Building Code.

E. Commercial purposes prohibited. No unoccupied mobile home or trailer shall be stored or exhibited for sale for commercial purposes within a park site or in any Residence District.

F. Mobile home subdivisions. Such subdivision shall have a minimum of 10 lots and shall comply in all other respects with Chapter **202**, Land Development Regulations, and shall be restricted to mobile homes.

G. Mobile home standards. All mobile homes located in mobile home parks and subdivisions shall meet the standards for manufactured housing of NH RSA 674:31.

H. Temporary permits. The Board of Adjustment may, after public hearing, grant a temporary permit not to exceed 90 days for a single mobile home or house trailer to be placed upon a lot in any district and used by the owner or owner's immediate family. No such permit shall be renewable without further public hearing. The storage of no more than one mobile home, motor home, or camping trailer shall be permitted on any lot.

§ 190-4.1 **Retirement community developments (RCDs).**

[Added 2006; amended 3-14-2006; 2008; 3-11-2014]

A. Authority. This section is adopted as an innovative land use control pursuant to RSA 674:21.

B. Purpose. The purpose of this section is to provide flexibility of zoning regulations in order to encourage the construction of small residential neighborhoods spread throughout Rye which provide affordable housing designed and constructed to meet the unique needs of people 62 years of age and over, while ensuring compliance with local planning standards, land use policies, good building design, and the requirements for the health, safety and

general welfare of the inhabitants of Rye. **[Amended 3-18-2017]**

- C. Special use permit required. Retirement community developments (RCDs) require a special use permit from the Planning Board. The Planning Board may approve a special use permit for an RCD which complies with the requirements of this section and the requirements of Chapter **202**, Land Development Regulations, for major site developments. Applications for a special use permit shall be submitted to the Planning Board and reviewed in accordance with the Planning Board's procedural requirements for major site developments. The Planning Board may amend Chapter **202**, Land Development Regulations, to include special requirements for the review and approval of RCDs.
- D. Requirements for RCDs.
- (1) Location. An RCD may be located in any zoning district in Rye, except within the Rye Beach Precinct. An RCD shall not be located within 1/2 mile of another RCD, as measured *by the shortest distance* between boundaries of the RCD parcels, along existing street lines.
 - (2) Parcel size. The minimum parcel size for an RCD shall be 10 acres, which may include wetlands.
 - (3) Frontage. An RCD shall have a minimum continuous frontage on a Class V road or better of 150 feet. Each dwelling within an RCD shall face upon either an existing Class V road or better or on a private way constructed within the RCD. **[Amended 3-12-2019 by Art. 4]**
 - (4) Number of dwelling units. An RCD shall have a minimum of eight dwelling units, but not more than 16 dwelling units. **[Amended 3-18-2017]**
 - (5) Density. The density of an RCD shall not be greater than eight dwelling units per contiguous ~~acre of upland soils~~ ~~upland acre~~. *In determining the potential density, the Planning Board may consider such other limitations on development that may exist on the property, including, but not limited to, aquifer and wellhead protection areas, steep slopes, ledge (exposed and shallow), soil types, and legal impediments to development (rights-of-way, easement restrictions, restrictive covenants, etc.).* No single contiguous area of uplands on a parcel shall have a density greater than eight dwelling units per acre. The density is the maximum allowed, and it may be reduced by the Planning Board if the characteristics of the site, or the configuration of the site plan, or the relationship of the RCD to its environs so warrants. **[Amended 3-18-2017]**
 - (6) ~~Bonus for affordable housing.~~ **Affordable Housing.** At least 50% of the dwelling units in an RCD must be affordable. To be considered as an affordable housing unit, a dwelling shall meet the following requirements: **[Amended 3-18-2017]**
 - (a) Occupancy by a person who would meet the income and assets limitations established by the Town for the elderly property tax exemption program. In addition, if owned, the principal, interest, taxes and condominium association fees shall not be more than 40% of the income of the occupants.
 - (b) The Planning Board may enact such regulations as are necessary to administer the

affordable housing bonus provision and the continuing compliance with it.

- (7) Types of dwellings. Dwelling types shall be of an architectural type and style deemed by the Planning Board to be compatible with the neighborhood and may include single-family detached dwellings, duplexes and multifamily dwellings. There shall be no more than four dwelling units in a single building. An RCD may have more than one type of dwelling. Site development review (i.e., site plan review) shall be required for all RCDs, including RCDs composed of single- and two-family dwellings.
- (8) Homeowners' association. All RCDs shall have a homeowners' association. The condominium declaration and bylaws shall be approved by the Planning Board in accordance with Chapter **202**, Land Development Regulations.
- (9) Bonus for excellence in design. The Planning Board may award a bonus of one or two dwelling units, total, beyond the 16 dwelling units allowed by § **190-4.1D(4)**, for excellence in design. In awarding the bonus the Planning Board may consider factors including but not limited to preservation of rural character, provisions for *public walking trails* ~~trails~~ from the site to *other public forest trails, lands, and amenities* ~~community facilities~~, innovative use of open space, and architecture. The Planning Board may enact amendments to Chapter **202**, Land Development Regulations, relative to the process and criteria by which the bonus may be awarded.
- (10) Building spacing/setbacks.
 - (a) Building spacing. All buildings in an RCD, including parking structures and accessory buildings, shall be separated by at least 25 feet.
 - (b) Setbacks. No principal or accessory building or structure shall be located closer than 75 feet to ~~a~~*an interior* property line, *abutting property line*, or street line. However, the Planning Board may reduce this requirement to 50 feet upon a determination that the scale and location of a building will not be incompatible with or detrimental to the use and enjoyment of the adjacent parcel.
- (11) Buffer. The perimeter of all RCDs shall be a landscaped buffer zone at least 25 feet in width, which may consist in whole or in part of existing natural tree growth.
- (12) Occupancy. The occupancy of an RCD shall be restricted solely to persons age 62 or older.; ~~with no exceptions.~~
- (13) Bedroom/floor space. There shall be no more than two bedrooms per dwelling unit. The minimum square footage of living space per unit shall be 800 square feet and the maximum square footage of living space per unit shall be 1,500 square feet. [**Amended 3-18-2017**]
- (14) Parking. Each dwelling unit shall be provided with a one-car garage attached or in close proximity to the unit and one other parking space. Additionally, a plan for an RCD shall include adequate parking for visitors, as determined by the Planning Board. The Planning Board may waive the garage requirement for some or all of the dwelling units if necessary to meet the affordability requirements of § **190-4.1D(6)**. [**Amended 3-18-2017**]

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(15) Town-wide limitations. RCDs are exempt from the growth management limitations of Article **IX**. A special use permit shall not be approved for any RCD which would result in the total number of dwelling units in RCDs in the Town of Rye exceeding 62. [**Amended 3-18-2017**]

(16) Bonus for cluster layout.

- (a) The Planning Board, at its discretion, may approve an RCD of up to 20 dwelling units if the proposal is for a cluster layout of streets and dwellings and if at least 50% of the parcel is preserved as common open space. Recreation and community facilities with impervious surfaces, any community buildings and all permanent structures will not be considered as part of the open space calculation for cluster layout. The area computation of the open space for the bonus for cluster layout shall not include road rights-of-way, public or private.
- (b) The open space shall be permanently protected using a conservation easement as open space or common land for the purposes of recreation, conservation, park, trails or public easement forestry or agriculture. The Planning Board at its discretion may require that the open space or some portion be publicly accessible via easements.
- (c) The open space of an RCD shall be visible from a Town or state road wherever possible. The clustered buildings should not be seen from a Town or state road or from a Town street. *Applicants should prioritize locating open space adjacent to other open space on abutting parcels to allow for connection of open space areas and/or wildlife corridors.*
- (d) The Planning Board may enact amendments to Chapter **202**, Land Development Regulations, relative to the process and criteria by which the bonus may be awarded.

(17) Recreation and community facilities.

- (a) An RCD may include recreation and community facilities intended for the use and enjoyment of residents and their guests, such as tennis courts, swimming pools, picnic/cookout areas and facilities; outdoor sitting areas; gardens; gazebos; and community buildings. The total surface area of community buildings within an RCD, footprint and any stories above, shall not exceed *the aggregate of* 100 square feet per bedroom.
 - (b) Based on the scope of the facilities, additional considerations may need to be evaluated; for example, if the number of guests could be substantial, parking calculations and septic loading must be considered with the anticipated use.
- E. Determinations required for special use permit approval. Prior to approving a special use permit for an RCD, the Planning Board shall determine, by a vote on the record, that the RCD meets each of the following standards:
- (1) All requirements of § **190-4.1D** have been met. (This may be a single vote on the record.)
 - (2) The granting of the special use permit will not be detrimental to adjacent property or the neighborhood.

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- (3) The granting of the special use permit will not be detrimental to the public safety, health or welfare.
 - (4) The granting of the special use permit will not be contrary to the public interest.
 - (5) Unless otherwise prohibited by state or federal law, the applicant will make reasonable provisions to assure that residents of Rye will have an opportunity to reside in the RCD.
- F. Conditions. In approving a special use permit, the Planning Board may attach such conditions to its approval as it deems necessary to further the objectives of this section, this chapter and the public health, safety and general welfare.
- G. Variances. Approval of an RCD is a privilege, not a right. The requirements of § **190-4.1D(1), (4), (5) and (15)**, which regulate the location, size, and density of RCDs, and of § **190-4.1D(15)**, which regulate the total number of RCD units in Town, are fundamental to the intent of this innovative zoning provision. ~~Any variance from the provisions thereof is hereby deemed to be inconsistent with the spirit and intent of this chapter and contrary to the public interest.~~
- H. Waivers. An applicant may apply for waivers to the requirements of § **190-4.1D(2), (3), (7), (10), (11), (12), (13) and (14)** provided such waiver does not deviate from the requirement by more than 20% and provided that 2/3 of the Planning Board members present and voting determine that:
- (1) A unique and identifiable specific circumstance of the land warrants granting of a waiver.
 - (2) The granting of the waiver will not be detrimental to adjacent property or the neighborhood.
 - (3) The granting of the special use permit will not be detrimental to the public safety, health or welfare.
 - (4) The granting of the special use permit will not be contrary to the public interest.
- I. Fees. The Planning Board shall charge an application fee for a special use permit for an RCD, in addition to its fee for site plan approval and any fees for investigation and review allowed by RSA 676:4, I(g).
- J. Conflicts. Where the provisions of this section conflict directly with a requirement of this chapter or a requirement of Chapter **202**, Land Development Regulations, the provisions of this section shall govern. Otherwise, all other requirements of this chapter and Chapter **202**, Land Development Regulations, shall apply to an RCD.
- K. Appeal. Pursuant to RSA 676:5, III, appeals of any Planning Board decisions made pursuant to this section shall be taken to the Superior Court or the Housing Appeals Board, not to the Board of Adjustment. **[Amended 3-8-2022 by Art. 3]**
- ~~L. Webster at Rye. Webster at Rye is not an RCD. None of the provisions of this section apply to Webster at Rye.~~

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§ 190-4.2 **Multifamily dwellings and multifamily developments.**
[Added 3-9-2010]

- A. Authority. This section is adopted as an innovative land use control pursuant to RSA 674:21.
- B. Special use permit required. Within the Multifamily Dwelling Overlay District multifamily dwellings and multifamily developments require a special use permit from the Planning Board. The Planning Board may approve a special use permit which complies with the requirements of this section and the requirements of Chapter **202**, Land Development Regulations, for major site developments. Applications for a special use permit shall be submitted to the Planning Board and reviewed in accordance with the Planning Board's procedural requirements for major site developments. The Planning Board may amend Chapter **202**, Land Development Regulations, to include special requirements for the review and approval of multifamily dwellings.
- C. Requirements for multifamily dwellings and developments.
- (1) Location. Multifamily dwellings may be located in the Multifamily Dwelling Overlay District.
- (2) Parcel size. The minimum parcel size shall be two acres, which may include wetlands.
- (3) Frontage. A multifamily dwelling or a multifamily development shall have a minimum continuous frontage on a Town or state road or street of 150 feet. The Planning Board may allow the frontage requirement to be met on a private street provided the requirements of § **190-4.2C(6)** are met and further provided that the Planning Board determines: **[Amended 3-8-2016; 3-12-2019 by Art. 4]**
- (a) The private street is a street depicted on a subdivision plat approved by the Planning Board;
- (b) Adequate provisions exist for maintenance and repair of the private street;
- (c) Frontage on a private street will not result in an adverse impact on community facilities or community services; ~~and~~
- (d) Frontage on a private street will not be contrary to the public health, safety or welfare; ~~and~~ **and**
- (e) *The provisions of RSA 674:41 are satisfied.***
- (4) Number of dwelling units. A multifamily dwelling shall not have more than five dwelling units. A multifamily development shall not have more than 40 dwelling units. The subdivision of land shall not be used to circumvent the forty-unit limitation; ***therefore adjacent lands owned by the same individual or by affiliated entities shall be considered the same lot for the purposes of this provision.*** **[Amended 3-8-2022 by Art. 3]**
- (5) Density. The density of a multifamily development shall not be greater than six dwelling units per contiguous ***acre of upland soils.*** ***In determining the potential density, the***

Planning Board may consider such other limitations on development that may exist on the property, including, but not limited to aquifer and wellhead protection areas, steep slopes, ledge (exposed and shallow), soil types and legal impediments to development (rights-of-way, easement restrictions, restrictive covenants, etc.). ~~upland acre located in Rye.~~ No single contiguous area of uplands on a parcel shall have a density greater than six dwelling units per acre. The density is the maximum allowed, and it may be reduced by the Planning Board if the characteristics of the site, or the configuration of the site plan, or the relationship of the development proposal to its environs so warrants.

(6) Workforce housing. **[Amended March 2011]**

- (a) At least 20% but not more than 51% (each rounded to the next highest whole number) of the dwelling units in a multifamily development shall be workforce housing units ("WF units"). The WF units shall be allocated as nearly as possible to individual dwellings based on the same ratio as exists for the multifamily development *to ensure equal distribution of workforce units throughout the structures containing dwelling units*. Where the allocation does not work out evenly, the Planning Board shall have the authority to approve the allocation among dwellings, but the overall limitation of 51% on the development shall be controlling.

[1] Example: An applicant proposed a multifamily development of 24 dwelling units in four dwellings, six dwelling units per dwelling. The twenty-four-unit development must have at least five WF units (20% of 24 = 4.8) but not more than 13 (51% of 24 = 12.2). If the applicant proposes 10 WF units, the overall ratio of the development is 41.7% (10/24). This works out to be 2.5 WF units per dwelling *structure* for the four dwellings. The Planning Board would have the authority to approve an allocation of three WF units to each of two dwellings and two WF units to each of the other two dwellings.

[2] Another example: An applicant proposed a multifamily development of 40 dwelling units in five dwellings *structures*, eight dwelling units per dwelling. The forty-unit development must have at least eight WF units (20% of 40 = 8) but not more than 21 (51% of 40 = 20.4). If the applicant proposes the maximum of 21 WF units, the overall ratio of the development is 52.5% (21/40). Each dwelling would be allocated four WF units, with the extra unit allocated to one of the five dwellings *structures*.

- (b) At least 20% but not more than 51% (each rounded to the next highest whole number) of the dwelling units in a multifamily dwelling on a single lot (i.e., a multifamily dwelling that is not part of a multifamily development) shall be workforce housing units.

- (c) The Planning Board shall impose conditions on the approval of multifamily dwellings and multifamily developments which shall assure that the approved number of workforce housing units remain permanently available for workforce housing as defined by RSA 674:58. Such conditions may include requirements for restrictive covenants and/or liens. **[Amended 3-10-2020 by Art. 3]**

- (7) Density bonus. At its discretion, the Planning Board may approve a density not to exceed eight dwelling units per contiguous uplands acre, provided that at least 30% of the total

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dwelling units are workforce housing as defined by RSA 674:58. If the bonus is awarded, no single contiguous area of uplands on a parcel shall have a density greater than eight dwelling units per acre.

(8) Building spacing. All dwellings shall be separated by at least 35 feet. **[Amended 3-8-2022 by Art. 3]**

(9) Parking. Each dwelling unit shall be provided with a one-car garage attached or in close proximity to the unit and one other parking space. Site plans shall include adequate parking for visitors, as determined by the Planning Board.

D. Determinations required for special use permit approval. Prior to approving a special use permit, the Planning Board shall determine, by a vote on the record, that the multifamily dwelling or multifamily development meets each of the following standards:

(1) All requirements of § **190-4.2C** have been met. (This may be a single vote on the record.)

(2) The granting of the special use permit will not be detrimental to adjacent property or the neighborhood.

(3) The granting of the special use permit will not be detrimental to the public safety, health or welfare.

(4) The granting of the special use permit will not be contrary to the public interest.

E. Growth management. The following provisions apply to multifamily dwellings which receive a special use permit pursuant to this section: **[Amended 3-8-2016]**

(1) For multifamily dwellings and multifamily developments which may be affected by the limitations of Article **IX**, Growth Management, the Planning Board may require a phasing plan. Any such phasing plan shall assure proportional buildout of workforce housing units.

(2) Multifamily dwellings and multifamily developments shall be exempt from the equitable distribution requirements of § **190-9.1B(3)**.

(3) If the limitations of Article **IX** would allow building permits for at least 50% of the dwelling units in a multifamily dwelling or a multifamily development but not all of the units, building permits may be issued for all of the units (i.e., for the entire dwelling). However, the certificates of occupancy for the remaining units above the limitation shall not be issued until building permits *would otherwise* become available under Article **IX**. In such circumstances, the subsequent Town-wide building permit limitations shall be reduced accordingly. **[Amended 3-10-2020 by Art. 3]**

(4) Waiver. The Planning Board may waive the requirements of § **190-4.2E(3)** and/or § **190-9.1B(2)**, provided that after a duly noticed public hearing it determines on the record that each of the following criteria is met:

(a) Applicability of the requirement(s) will make financing of the multifamily dwelling or

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multifamily development infeasible;

- (b) The waiver will not result in an adverse impact on community facilities or community services; and
 - (c) The waiver will not be contrary to the public health, safety or welfare.
- F. Conditions. In approving a special use permit, the Planning Board may attach such conditions to its approval as it deems necessary to further the objectives of this section, this chapter and the public health, safety and general welfare.
- G. Fees. The Planning Board shall charge an application fee for a special use permit for a multifamily dwelling or multifamily development, in addition to its fee for site plan approval and any fees for investigation and review allowed by RSA 676:4, I(g). Any special fees established by the Planning Board shall be reduced proportionally for applications which propose workforce housing (i.e., the fee for a proposal having 20% workforce housing shall be reduced 20%).
- H. Conflicts. Where the provisions of this section conflict directly with another requirement of this chapter or a requirement of Chapter **202**, Land Development Regulations, the provisions of this section shall govern. Otherwise, all other requirements of this chapter and Chapter **202**, Land Development Regulations, shall apply to multifamily dwellings and multifamily developments.
- I. Appeal. Pursuant to RSA 676:5, III, appeals of any Planning Board decisions made pursuant to this section shall be taken to the Superior Court or the Housing Appeals Board, not to the Board of Adjustment. **[Amended 3-8-2022 by Art. 3]**

§ 190-4.3 Conservation land developments (CLDs).

[Added 3-9-2010]

- A. Authority. This section is adopted as an innovative land use control pursuant to RSA 674:21.
- B. Purposes. The purposes of this section are:
- (1) To preserve Rye's rural character by allowing natural land features and/or open spaces to be conserved while providing greater flexibility for the residential development of larger parcels of land;
 - (2) To encourage environmentally sound land planning and create attractive living environments through creative placement of housing; and
 - (3) To encourage the building of well-planned housing developments which will blend units of workforce housing into neighborhoods available to all prospective residents of Rye.
- C. Special use permit required. Conservation land developments (CLDs) require a special use permit from the Planning Board. The Planning Board may approve a special use permit for

a CLD which complies with the requirements of this section and the requirements of Chapter **202**, Land Development Regulations. Applications for a special use permit shall be submitted to the Planning Board and reviewed in accordance with Chapter **202**, Land Development Regulations. The Planning Board may amend Chapter **202**, Land Development Regulations, to include special requirements for the review and approval of CLDs.

D. Requirements for conservation land developments (CLDs).

- (1) Location. CLDs may be located in the Single Residence and Commercial Districts.
- (2) Parcel size. The minimum parcel size for a CLD shall be 20 acres of land located in Rye.
- (3) Frontage. A CLD shall have a minimum continuous frontage on a Town or state road or street of 150 feet. Each dwelling within a CLD shall face upon either an existing Town or state road or street or on a private way constructed within the CLD. **[Amended 3-12-2019 by Art. 4]**
- (4) Number of dwelling units.
 - (a) A CLD shall have a minimum of 10 dwelling units, but not more than 35 dwelling units.
 - (b) Yield plan. The number of dwelling units in a CLD shall be determined by a yield plan submitted by the applicant to the Planning Board for review and approval.
 - [1] The yield plan shall portray a buildout of the subject parcel which complies with existing zoning and subdivision regulations *after giving due consideration to such other limitations on development that may exist on the property, including, but not limited to, aquifer and wellhead protection areas, steep slopes, ledge (exposed and shallow), soil types, and legal impediments to development (rights-of-way, easement restrictions, restrictive covenants, etc.)*. The yield plan may include wetlands crossings which in the judgment of the Planning Board might reasonably be expected to be approved by NHDES and the Rye Board of Adjustment.
 - [2] The number of dwelling units in a CLD shall not exceed 130% of the number of dwelling units portrayed by the approved yield plan.
 - [3] A yield plan shall not be approved by the Planning Board without a hearing and notice to abutters pursuant to RSA 676:4.
 - [4] The Planning Board shall not accept jurisdiction over a special permit application for a CLD until the yield plan has been approved.
 - [5] The approval of a yield plan is part of the process for submitting and application for approval of a CLD. Approval of the yield plan may be appealed only after a final decision approving the CLD special permit application.
 - [6] The Planning Board may enact regulations governing the content of yield plans and the

procedures for review and approval of yield plans.

- (5) Density. No single contiguous area of uplands on a parcel shall have a density greater than four dwelling units per acre. The density is the maximum allowed, and it may be reduced by the Planning Board if the characteristics of the site, or the configuration of the site plan, or the relationship of the CLD to its environs so warrants.
- (6) Workforce housing. At least 20% but not more than 40% of the dwelling units in a CLD shall be workforce housing, ~~as defined by RSA 674:58~~. Workforce housing units may be rental units or ownership units. Workforce housing units shall be located throughout the CLD and not all grouped together, in an integrated pattern acceptable to the Planning Board. ***Effort shall be made for the uniform distribution of workforce housing units throughout the CLD.*** The architectural style of workforce housing dwellings shall be compatible with the architectural style of other dwellings in the CLD. The Planning Board shall impose conditions on the approval of a CLD which shall assure that the approved number of workforce housing units remain permanently available for workforce housing as defined by RSA 674:58. Such conditions may include requirements for restrictive covenants and/or liens. [Amended March 2011]
- (7) Types of dwellings. Dwelling types shall be of an architectural type and style deemed by the Planning Board to be compatible with the neighborhood and may include single-family detached dwellings, duplexes and townhouse-style multifamily dwellings. There shall be no more than five dwelling units in a single dwelling. A CLD may have more than one type of dwelling. Site development review (i.e., site plan review) shall be required for all CLDs, including CLDs composed of single- and two-family dwellings.
- (8) Homeowners' association. All CLDs shall have a homeowners' association, unless the CLD is composed entirely of rental housing. The ***restrictive covenants, homeowner's association bylaws, condominium declaration and bylaws, or similar documents*** shall be approved by the Planning Board in accordance with Chapter 202, Land Development Regulations.
- (9) Bonus for excellence in design. The Planning Board may award a bonus of ***up three*** to five dwelling units, total, beyond the number of units allowed by § 190-4.3D(4), for excellence in design. In awarding the bonus the Planning Board may consider factors including but not limited to preservation of rural character, provisions for ***public*** walking trails from the site to ***other public forest trails, lands, and amenities*** ~~community facilities, (fitness center, pool, playground, etc.)~~, innovative use of open space, architecture, and "green building"/energy-efficient measures. The Planning Board may enact amendments to Chapter 202, Land Development Regulations, relative to the process and criteria by which the bonus may be awarded.
- (10) Building spacing. All buildings in a CLD, including parking structures and accessory buildings, shall be separated by at least 25 feet.
- (11) Buffer. The perimeter of all CLDs shall be a landscaped buffer zone at least 50 feet in width, which may consist in whole or in part of existing natural tree growth.
- (12) Flexible planning provisions.

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Amended 1-3-2023 moved to ballot

- (a) Lot size; frontage. In a CLD the Planning Board may approve lot sizes and frontages less than the minimum requirements of this chapter: ***provided the density and building spacing set forth in this §190-4.3 are satisfied.*** Zero lot line developments may be approved.
- (b) Setbacks. The Planning Board may approve building setbacks less than the minimum yard size requirements of this chapter provided the building spacing requirement of § **190-4.3D(10)** is met and provided that no dwelling shall be closer than 10 feet to a street or parking area.
- (13) Parking. Each dwelling unit shall be provided with a garage attached or in close proximity to the unit and one other parking space. A plan for a CLD shall include adequate parking for visitors, as determined by the Planning Board.
- E. Open space requirements. At least 50% of the land area of a CLD shall be preserved in perpetuity by deed restriction or conservation easement as common open space accessible to the residents of the CLD ***or the Town.*** The open space shall be integrally related to the development of the parcel. Driveways, access roads and parking shall not be located within the open space. Recreational and community facilities such as playgrounds, tennis courts, pathways, ball fields, trails, etc., may be located within the open space.
- (1) Wetlands. Not more than 25% of the area preserved as open space may be ***comprised of*** wetlands as defined by this chapter.
- (2) Contiguous open space. At least 40% of the area preserved as common open space must be contiguous. All pieces of preserved common open space shall have a minimum contiguous area of three acres.
- (3) Buffer. The buffer required by § **190-4.3D(11)** may be part of the preserved common open space ***subject to (2) above.***
- (4) Common leachfield. A common leachfield may be part of the common open space if adequately screened, as determined by the Planning Board, but it may not occupy the buffer required by § **190-4.3D(11)**.
- (5) Ownership of common open space. The common open space may be owned by a homeowners' association, the Rye Conservation Commission or some other conservation entity ***qualified to administer the open space covenants and restrictions and*** acceptable to the Rye Planning Board.
- (a) The common open space shall be subject to deed restrictions ***or conservation easement or other restrictive covenants*** requiring its permanent preservation as open space. Such restrictions shall run with the land.
- (b) The common open space shall, ***at a minimum,*** be accessible to all residents of the CLD.
- ~~(c) The common open space may be preserved by a conservation easement granted to the Rye Conservation Commission or some other conservation entity acceptable to the Planning Board. All easement restrictions shall run with the land.~~

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- (~~de~~) The fee deed or easement deed for the common open space shall be reviewed and approved by Town Counsel.
 - (6) Reduction of 50% requirement. The requirement that the minimum preserved common open space be 50% of the CLD parcel size may be reduced to 40% by the Planning Board in the following circumstances:
 - (a) Ten contiguous acres or more of non-wetlands are preserved as common open space;
 - (b) The open space abuts other open space owned by the Town of Rye, Rye Conservation Commission (including conservation easements), the State of New Hampshire, the Rye School District, or the Rye Water District; ~~and the~~
 - (c) **The** Rye Conservation Commission recommends the reduction;
 - (~~ed~~) Seventy-five percent of the non-wetland areas being preserved are soils where the depth to ledge is greater than two feet but less than four feet;
 - (e) **Accessible to all residents of the Town of Rye;**
 - (~~ef~~) The open space contributes to the establishment of connected corridor(s) of open space, accessible to the public, throughout the Town; or
 - (~~eg~~) The open space is arranged so that the dwellings of the CLD are not visible from an existing Town or state road or street.
- F. Determinations required for special use permit approval. Prior to approving a special use permit for a CLD, the Planning Board shall determine, by a vote on the record, that the CLD meets each of the following standards:
- (1) All requirements of § **190-4.3D** have been met. (This may be a single vote on the record.)
 - (2) The granting of the special use permit will not be detrimental to the public safety, health or welfare.
 - (3) There will be no greater diminution of surrounding property values than would be created under any other use or development permitted **as a matter of right** in the underlying zone.
 - (4) The character of the area will not be adversely affected. In evaluating this requirement the Planning Board shall consider the following factors:
 - (a) Compatibility of architecture.
 - (b) The capacity of nearby intersections and transportation corridors.
 - (c) The protection of environmentally sensitive areas.
 - (d) The maintenance of viewsheds.

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- (e) The protection of cultural resources.
- (5) The granting of the permit will not result in undue municipal expense.
- G. Growth management. The following provisions apply to CLD:
 - (1) For CLDs which may be affected by the limitations of Article **IX**, Growth Management, the Planning Board may require a phasing plan. Any such phasing plan shall assure proportional buildout of workforce housing units.
 - (2) CLDs shall be exempt from the equitable distribution requirements of § **190-9.1B(3)**.
 - (3) If the limitations of Article **IX** would allow building permits for at least 50% of the dwelling units in a multifamily dwelling but not all of the units, building permits may be issued for all of the units (i.e., for the entire dwelling). However, the certificates of occupancy for the remaining units above the limitation shall not be issued until building permits *would otherwise* become available under Article **IX**. In such circumstances, the subsequent Town-wide building permit limitations shall be reduced accordingly. [**Amended 3-10-2020 by Art. 3**]
- H. Conditions. In approving a special use permit, the Planning Board may attach such conditions to its approval as it deems necessary to further the objectives of this section, this chapter and the public health, safety and general welfare.
- I. Fees. The Planning Board shall charge an application fee for a special use permit for a CLD, in addition to its fee for site plan or subdivision approval and any fees for investigation and review allowed by RSA 676:4, I(g).
- J. Conflicts. Where the provisions of this section conflict directly with a requirement of this chapter or a requirement of Chapter **202**, Land Development Regulations, the provisions of this section shall govern. Otherwise, all other requirements of this chapter and Chapter **202**, Land Development Regulations, shall apply to a CLD.
- K. Appeal. Pursuant to RSA 676:5, III, appeals of any Planning Board decisions made pursuant to this section shall be taken to the Superior Court or the Housing Appeals Board, not to the Board of Adjustment. [**Amended 3-8-2022 by Art. 3**]