



**BOROUGH OF FLORHAM PARK  
COUNTY OF MORRIS  
STATE OF NEW JERSEY**

**ORDINANCE # 20-15**

**AN ORDINANCE OF THE BOROUGH OF FLORHAM PARK TO AMEND ARTICLE XVIII (PLANNED OFFICE DISTRICT ZONES) OF CHAPTER 250 (ZONING) OF THE ORDINANCES OF THE BOROUGH OF FLORHAM PARK WITH RESPECT TO SENIOR CITIZEN HOUSING COMMUNITIES WITHIN THE PLANNED OFFICE DISTRICT ZONES**

**WHEREAS**, the Borough Council deems it appropriate to amend the Borough Code with respect to certain elements of the Planned Office District (POD-S) Zones, specifically with regard to senior citizen housing communities.

**WHEREAS**, the Borough Council understands that permitted uses of the POD-S Zone and of the Planned Unit Development use, specifically the permitted commercial uses and requirements, are affected by the amendment of the permitted and conditional uses in the zone, and deem it appropriate to amend the requirements of the commercial use component.

**NOW, THEREFORE, BE IT ORDAINED** by the Borough Council of the Borough of Florham Park, County of Morris, State of New Jersey, as follows:

**SECTION 1.** Section 250-119 (Conditional uses in POD-S Zone), Subsection “B” of Article XVIII (Planned Office District Zones) of Chapter 250 (Zoning) of the Code of the Borough of Florham Park is hereby amended to replace the existing Subsection “B” in its entirety with the new Subsection “B”, Items “(1)-(3)” as follows:

- B. A senior citizen housing community is a conditional use in the POD-S Zone:
  - (1) Conditions. A senior citizen housing community is a conditional use in the POD-S Zone subject to the following conditions:
    - a. The senior citizen housing community shall be located on a property containing at least nine (9) acres.

- b. The senior citizen housing community shall not contain more than 240 units.
- c. The unit/bedroom mix shall consist of no more than 128 one- and two-bedroom independent living units. The balance of units may be provided as assisted living units with studio, one-, and two- bedrooms in compliance with N.J.S.A. 26:2H-12.16, and studio memory care units in compliance with N.J.S.A. 26:2H-12.16, as well as various support uses and services as defined herein.

(2) Bulk Standards.

- a. The senior citizen housing community shall meet the bulk standards and requirements under §250-125, “Bulk Standards for a Senior Citizen Housing Community in the POD-S Zone”.

(3) Impact of Conditional Use on the POD-S Zone Standards.

- a. A senior citizen housing community shall be considered developed upon issuance of the first certificate of occupancy. If the senior citizen housing community is developed, the maximum floor area and maximum floor area ratio requirements for all other permitted uses in the POD-S Zone shall be reduced pursuant to §250-119.C, §250-122, §250-123.A(1)(b), and §250-123.C(1).

**SECTION 2.** Section 250-119 (Conditional uses in POD-S Zone), Subsection “B” of Article XVIII (Planned Office District Zones) of Chapter 250 (Zoning) of the Code of the Borough of Florham Park is hereby amended to replace the existing Subsection “B”, Items “(1) – (4)”, with Subsection “C”, Items (1) – (6) below as follows:

- C. Uses permitted in §250-117, other than commercial athletic training facilities pursuant to §250-124 below, and planned unit development pursuant to §250-123 below, which occupy gross floor area in excess of 0.074 FAR or 830,000 square feet; or a conditionally permitted senior citizen housing community component pursuant to §250-119.B, shall be deemed to be conditional uses in the POD-S Zone subject to the following regulations (which regulations, notwithstanding anything to the contrary elsewhere in this chapter, shall not apply to commercial athletic training facilities or planned unit development):
  - (1) Requirement for direct connection to Route 24 for development in the POD-S Zone exceeding 830,000 square feet of gross floor area. Permitted uses in the POD-S Zone in excess of 830,000 square feet of gross floor area as permitted under §250-117, up to a maximum floor area ratio of 0.153, are conditioned on direct connection providing two-way access from an interchange access street in the POD-S Zone to Route 24. The gross floor area ratio maximum for the POD-S Zone may be increased to 0.180 pursuant to §119C(4) and (5)below.

- (2) If the conditionally permitted senior citizen housing community component, pursuant to §250-119.B, is developed, the requirement for direct connection to Route 24 is changed for development in the POD-S Zone exceeding 564,196 square feet of gross floor area and up to a maximum floor area ratio of 0.130. Permitted uses in the POD-S Zone in excess of these provisions are conditioned on direct connection providing two-way access from an interchange access street in the POD-S Zone to Route 24. Under these provisions, the gross floor area ratio maximum for the POD-S Zone may be increased above that to 0.157 pursuant to §119C(4) and (6) below.
- (3) Except as provided in Subsection C(4) below, the floor area ratio for uses permitted by §250-118 shall not exceed 0.153, and shall not exceed 0.130 if the conditionally permitted senior citizen housing community component is developed.
- (4) Pursuant to N.J.S.A. 40:55D-39c, and subject to the limitations of this subsection, a developer of a planned commercial development may increase the concentration of development within the POD-S Zone if such increase is offset by a corresponding reduction of development in the POD-N Zone.
- (5) The developer shall be permitted to increase floor area ratio in the POD-S Zone to 0.180, provided that this increase is offset by elimination of the commercial development permitted in the POD-N Zone. Any increased floor area ratio is only permitted if the entire development in the POD-N Zone is eliminated, excepting utilities to service the POD-S Zone.
- (6) If the conditionally permitted senior citizen housing community component, pursuant to §250-119.B, is developed, the allowances to increase floor area ratio in the POD-S Zone shall be limited to 0.157, provided that this increase is offset by elimination of the commercial development permitted in the POD-N Zone. Any increased floor area ratio is only permitted if the entire development in the POD-N Zone is eliminated, excepting utilities to service the POD-S Zone.

**SECTION 3.** Section 250-122 (FAR limits in the POD Zones) of Article XVIII (Planned Office District Zones) of Chapter 250 (Zoning) of the Code of the Borough of Florham Park is hereby amended to read as follows:

Notwithstanding anything to the contrary elsewhere in this chapter, the floor area ratio limits within the POD Zones shall not apply to parking structures, including but not limited to buildings and/or structures related to park-and-ride facilities; freestanding buildings or structures for mechanical or utility equipment, including but not limited to sewage treatment facilities; hotels or hotel and conference centers; vacant building

subject to an agreement for removal and maintenance pursuant to §250-117.B above; buildings and/or structures accessory to any open space use; buildings and/or structures included within any commercial athletic training facility; and/or buildings and/or structures included within a planned unit development. Within a planned commercial development, floor area ratio limits shall apply to the total floor area (other than floor area which is excluded under this section, herein called "excluded floor area") within the planned commercial development but shall not apply so as to limit the extent of floor area on individual lots. The gross floor area (other than excluded floor area) of a planned commercial development in the POD-S Zone may, pursuant to a general development plan, equal but shall not exceed as a permitted use 830,000 square feet and as a conditional use may equal 1,730,000 square feet. The total gross floor area of a planned commercial development (other than the excluded floor area) may equal but not exceed 2,030,000 square feet if permitted commercial development in the POD-N Zone is eliminated pursuant to §250-119C(4) and (5) of this article. If the conditionally permitted senior citizen housing community component, pursuant to §250-119.B, is developed, the gross floor area (other than excluded floor area) of a planned commercial development in the POD-S Zone may, pursuant to a general development plan, equal but shall not exceed as a permitted use, 564,196 square feet and as a conditional use may equal 1,464,196 square feet. The total gross floor area of a planned commercial development (other than the excluded floor area) may equal, but not exceed 1,764,196 square feet if permitted commercial development in the POD-N Zone is eliminated pursuant to §250-119C(4) and (6) of this article.

**SECTION 4.** Section 250-123 (Planned unit development in POD-N and POD-S Zones), Subsection "A" (Required Components of PUD), Subsection "(1)(b)" of Article XVIII (Planned Office District Zones) of Chapter 250 (Zoning) of the Code of the Borough of Florham Park is hereby amended to read as follows:

- (b) A commercial use component containing up to but not more than 830,000 square feet of gross floor area occupied by any one or more of the uses permitted under §250-117A(1) through (4) above; in addition to the above-permitted 830,000 square feet of gross floor area, the commercial use component may also contain i) a hotel and conference center in conformance with the requirements of §250-119A above, and ii) corporate suites in conformance with the requirements of §250-123C(2) below. A commercial use component shall be limited to 564,196 square feet of gross floor area occupied by any one or more of the uses permitted under §250-117A(1) through (4) above, if a conditionally permitted senior citizen housing community component is included in the PUD. In addition to the above-permitted 564,196 square feet of gross floor area under that provision, the commercial use component may also contain i) a hotel and conference center in conformance with the requirements of §250-119A above, and ii) corporate suites in conformance with the requirements of §250-123C(2) below.

**SECTION 5.** Section 250-123 (Planned unit development in POD-N and POD-S Zones), Subsection "C" (Requirements for commercial use component), Subsection (1) of Article XVIII

(Planned Office District Zones) of Chapter 250 (Zoning) of the Code of the Borough of Florham Park is hereby amended to read as follows:

- (1) In general. All development within the commercial use component shall comply with the area, yard, setback, height, and coverage requirements of §250-121 above, except that hotel and conference center development shall instead be governed by §250-119A, corporate suites shall instead be governed by §250-123C(2) below, and maximum improved coverage within the commercial use component of the PUD shall not exceed 40% of the total land area occupied by the commercial use component. Except for a hotel and conference center, and corporate suites, total gross floor area within the commercial use component of the PUD shall not exceed 830,000 square feet. If a conditionally permitted senior citizen housing community, pursuant to §250-119.B, is developed the total gross floor area of the commercial component of the PUD is reduced and shall not exceed 564,196 square feet, except for a hotel and conference center, and corporate suites.

**SECTION 6.** Subsection 250-2.2D (Definitions) of Chapter 250 (Zoning) of the Code of the Borough of Florham Park is hereby amended to include the following new definitions:

#### **SENIOR CITIZEN HOUSING COMMUNITY**

A residential community providing a continuum of care primarily for senior citizens and consisting of independent living units, assisted living units, and memory care units, together with support uses and services such as, but not limited to, dining rooms, kitchens, exercise rooms, living rooms, multipurpose rooms, theaters, libraries, salons and studios, laundry rooms, offices, exam rooms, nursing stations, mail rooms, indoor and outdoor recreation, surface and structured parking, and other uses and services customary and incidental to a senior citizen housing community.

#### **INDEPENDENT LIVING UNITS**

A dwelling that is located within a senior citizen housing community and is (a) occupied by (i) at least one individual who is age 62 or over or (ii) the surviving spouse of an individual who occupied the housing unit and was 62 years of age or older at the time of death, and (b) not occupied by anyone under age 19.

#### **MEMORY CARE UNITS**

Residential facilities within a senior citizen housing community providing housing and care to individuals with Alzheimer's and other forms of dementia and memory impairment. Memory care units will primarily be occupied by senior citizens but may also be occupied by early onset residents of any age.

#### **MEDICAID WAIVER**

Medicaid waiver designates a form of insurance payment for certain assisted living care, health and medical services paid through the Enhanced Community Options (ECO) waiver program which is a home and community-based services waiver for the elderly and disabled. The New Jersey Department of Health and Senior Services must license Medicaid providers of assisted living services. In addition, the New Jersey Department of Health and Senior Services allocates Medicaid waivers to specific licensed assisted living residences. In accordance with N.J.S.A. 26:2H-12.16 et seq., a new assisted living residence or comprehensive personal care home licensed on or after September 1, 2001, shall attain a level of occupancy by Medicaid eligible persons of at least 10 percent of its total bed complement within three years of licensure and shall maintain this level of Medicaid occupancy thereafter.

**SECTION 7.** Article XVIII (Planned Office District Zones) of Chapter 250 (Zoning) of the Code of the Borough of Florham Park is hereby amended to include a new Section 250-125, entitled “Bulk Standards and Requirements for a Senior Citizen Housing Community in the POD-S Zone” to be added as follows:

§250-125: Bulk Standards and Requirements for a Senior Citizen Housing Community in the POD-S Zone

The following bulk standards and requirements shall apply to any conditionally permitted Senior Citizen Housing Community in the POD-S Zone:

- (1) Minimum lot size shall be nine (9) acres.
- (2) Minimum lot frontage shall be 100 feet.
- (3) Minimum front yard setback shall be 100 feet.
- (4) Minimum yard setback from all other property lines shall be 25 feet.
- (5) Maximum improved lot coverage shall be 65% (Such coverage shall be calculated based on the total land area within the senior citizen housing community component of the PUD.).
- (6) Maximum building lot coverage shall be 25% (Such coverage shall be calculated based on the total land area within the senior citizen housing community component of the PUD).
- (7) Maximum building height: 3 stories/45 feet for buildings without parking underneath; 4 stories/60 feet for buildings with parking underneath or below grade. Underground stories shall not be counted towards overall building height.
  - (a) The following roof structures may extend up to 15 feet above the permitted height limit, provided that such structures are setback at

least 20 feet from the perimeter of the roof and, in the aggregate, do not cover more than 20% of the roof surface: roof tanks and supports; elevator housings; mechanical equipment and decorative screening thereof; decorative roof projections; and chimneys and vent pipes.

- (b) The following roof structures may extend up to 15 feet above the permitted height limit, provided that, in the aggregate with the above under (a) do not cover more than 20% of the roof surface: stairwell enclosures.
  - (c) Parapet walls may extend up to 10 feet above the top of roof, limited to those portions of the building that are one story.
- (8) Parking shall be provided in accordance with the requirements of N.J.A.C. 5:21 and Residential Site Improvement Standards (RSIS), with independent living units to meet the RSIS requirements for “garden apartments”, and assisted living units and memory care units to meet the RSIS requirements for “assisted living”.
- (a) The Planning Board shall have the discretion to grant a de minimis exception from RSIS standards based on the anticipated reduced parking demand for senior citizen housing community usage.
- (9) An oversized parking space shall be provided and shall be a minimum dimension of 14 feet in width by 30 feet in length for facility-owned transportation buses and other oversized vehicles.
- (10) Minimum parking stall setback from all property lines shall be 20 feet.
- (11) Minimum drive aisle setback from any property line shall be 12 feet.
- (12) Maximum wall and fence height in the front yard shall be 6 feet for a wall and 4 feet for a fence.
- (13) Maximum wall and fence height in the side and rear yards shall be 10 feet for a wall and 4 feet for a fence.
- (14) Signage. Notwithstanding anything to the contrary in this Chapter, the following signage shall be permitted:
- (a) Up to two (2) single-sided freestanding signs.
  - (b) Maximum area no more than 36 square feet each.
  - (c) Maximum sign height shall be 8 feet.

- (d) Wall signs and directional signs shall be subject to the requirements provided under Chapter 199 “Signs”, Sections 199-38.B, -38.C, and -38.D of the Borough Land Use Code.

(15) Design Requirements

- (a) Building elevations shall be constructed to the same architectural design standards on all façades.
- (b) Courtyards and passive open space areas shall be provided in no less than 2 locations on the site, with a minimum individual area of 4,000 square feet per courtyard, and a minimum total cumulative area of 20,000 square feet for the entire site.
- (c) Sidewalks and walking paths shall be a minimum of 4 feet in width and constructed to ADA standards. Lighting shall be provided per Section 250-101(b) of the Borough Land Use Code.

(16) Affordable Housing Requirement

- (a) 10% of the total Assisted Living and Memory Care units shall be set-aside under State Medicaid requirements per the definition of “Medicaid Waiver”.
- (b) The Independent Living units shall be subject to the provisions of the Borough’s Affordable Housing Ordinance, Section 250-7.5, “Affordable housing regulations”.
- (c) Pursuant to N.J.A.C. 5:93-8.10(c), “Development fees; residential”, the developer may pay a fee in lieu of building low and moderate income units.
- (d) A Developer’s Agreement stating the terms of any payment-in-lieu of construction shall be required.

**SECTION 8.** Repealer. All ordinances inconsistent with this ordinance are hereby repealed to the extent of such inconsistencies.

**SECTION 9.** Severability. If any section, paragraph, subdivision, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause or provision so adjudged and the remainder of this Ordinance shall be deemed valid and effective.

**SECTION 10.** Effective Date. This Ordinance shall take effect upon its passage and publication according to law.

I HEREBY CERTIFY this to be a true and correct Ordinance of the Mayor and Borough Council of the Borough of Florham Park introduced on September 10, 2020 and will be further considered for adoption after Public Hearing held on September 24, 2020 at 6:30p.m. at a virtually held meeting of the Governing Body which will be advertised in accordance with the law.

INTRODUCED: September 10, 2020

ADOPTED:

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Mark Taylor, Mayor

ATTEST:

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Sheila A. Williams, R.M.C., Municipal Clerk