

Town of Tyngsborough Zoning Bylaw  
May 2023

2. The applicant meets the conditions and terms concerning, but not limited to, resale restrictions, tenant-purchaser selection and eligibility, resident priority, and other administrative rules and regulations as promulgated by the Planning Board which are designed to ensure the goal of providing affordable housing is continued.
3. All units provided pursuant to this section shall not be less than the average size of all other units in the same development and shall be similar in terms of siting, style, and quality of construction.
4. Determination of Affordability. The term "affordable" shall be defined as the maximum purchase price or less allowed by the Massachusetts Housing Finance Agency (MassHousing) through said its First Time Homebuyer Program for the Lowell, MA - NH Primary Metropolitan Statistical Area for newly constructed condominium units. The term "affordable" for rental units shall be defined to be the Fair Market Rent or less as established by the Department of Housing and Urban Development for the Lowell, MA - NH Primary Metropolitan Statistical Area for the purpose of determining eligibility in the Section 8 Housing Rental Program. In all cases the most recent published figures shall apply.

## 9.5 Special Permit; Assisted Living and Continuing Care Campus Development

- A. Purpose. The purpose of this article is to provide residential services that meet the needs of people as they age and people that require assistance with activities of daily living.
- B. Applicability. The Planning Board may grant a Special Permit for an Assisted Living or Continuing Care Campus Development in accordance with this Article on any tract of land in the B-3 Zoning District that meets the following requirements:
  1. Four or more acres of land;
  2. Minimum of 200 feet of frontage; and
  3. Public water and sewer available at the street frontage.
- C. An Assisted Living Facility or Continuing Care Community Campus is intended to be friendly to people who are facing challenges of aging and those that require assistance. As such, buildings and site improvements proposed for these uses shall accommodate by including visibility and universal design in accordance with the provisions of this article.
- D. Uses
  1. In the B-3 Zoning District, the Planning Board may grant a special permit for an Assisted Living or Continuing Care Campus. This article does not permit development of Independent Living units without being accompanied by Assisted Living facilities. Assisted Living and Continuing Care Campuses may include one or more of the following:

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- a) Memory care units.
- b) Skilled nursing facility or physical rehabilitation facility with no more than 100 beds.
2. An Assisted Living Facility or Continuing Care Campus may include the following non-residential uses primarily for the benefit of residents and their guests, provided that aggregate floor area for the nonresidential uses shall not exceed 10 percent of the total gross floor area of the buildings in the development. These uses shall be incidental and subordinate to the principal residential uses in the Assisted Living Facility or Continuing Care Campus.
  - a) Personal services.
  - b) Medical office or clinic.
  - c) Accessory uses for residents, employees, and guests, such as central or common dining facilities or laundry facilities, or indoor or outdoor recreation facilities.

**E. Basic Requirements**

1. Assisted Living Facilities and Continuing Care Campuses shall be limited to 18 units per acre.
2. Maximum building coverage shall not exceed 35 percent of the lot area for new construction or expansion of existing structures. Maximum impervious area shall not exceed 60 percent.
3. Assisted Living and Continuing Care Campus dwelling units are subject to the Inclusionary Zoning Bylaw under Section 9.1.
4. Buildings constructed as part of an Assisted Living Facility or Continuing Care Campus must be set back a minimum of 20 feet from an internal roadway or the distance stipulated in Section 5.5, Table of Standard Dimensional Regulations, from a public way. Buildings shall be separated from each other and from lot lines by a minimum of 30 feet at the sides and include a rear setback of 40 feet, except that the minimum setback shall be 100 feet from the side or rear lot line, as applicable, abutting an existing single-family dwelling. The building heights shall be determined by the Table of Standard Dimensional Regulations.
5. No dwelling unit in An Assisted Living Residence or Continuing Care Campus shall have more than two bedrooms.
6. The minimum common open space in the development shall be 30 percent of the lot area, and not more than 25 percent of the required minimum common open space shall consist of wetlands. The upland open space shall be contiguous and usable by residents of the development.

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7. Sidewalks that comply with the Americans with Disabilities Act of 1990, as amended (ADA) shall be installed to connect parking areas and buildings throughout the site.
8. Minimum off-street parking requirements shall be as follows:
  - a) Independent living units: one space per bedroom.
  - b) Assisted living residence: one space per two units.
  - c) Skilled nursing facility or physical rehabilitation center, if included in a Continuing Care Campus: one space per two beds.
9. Guest parking: one space per three units or three beds, as applicable.

F. **Age Appropriate Design.** An Assisted Living Facility or Continuing Care Community Campus is intended to serve people who are facing challenges of aging and those that require assistance. While units are not required to be age restricted, they must be designed for “visability” and for people to age in place. At minimum, these terms mean that an Assisted Living Facility or Continuing Care Community Campus shall have the following features:

1. Independent living units and assisted living facilities shall comply with the accessibility requirements of the Massachusetts Architectural Access Board in accordance with Group 1 requirements of 521 CMR.
2. Residential and community buildings shall provide for:
  - a) At least one zero-step entrance;
  - b) Doorways with a thirty-six-inch clear passage space;
3. Independent Living units may be in a multi-story building, but shall be one level and include master bedroom and an accessible en suite bathroom designed and equipped for seniors and people with mobility impairments
4. Outdoor facilities, such as walkways, gardens, and recreation areas, shall be designed for universal access.

G. **Development Standards.** As part of the Planning Board's special permit review process, the Board shall evaluate the proposed Assisted Living or Continuing Care Campus Development for conformance to the following minimum design standards.

1. Structures shall be clustered to reduce site disturbance and protect open spaces and natural and environmentally sensitive areas.
2. Building design shall avoid use of long, unbroken facades, and shall include use of balconies, offset walls, trellises, and other design elements to provide visual interest.

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3. Building design, colors, and materials shall generally correspond to the natural setting of the project site and to any prevalent design styles that may occur in neighborhoods within the general project area.
4. Structures located near the project property lines shall be designed and located in a manner that reflects consistency and compatibility with neighboring areas and shall include appropriate use of building density, heights, and design to minimize any intrusion on neighbors.
5. Outdoor recreation or gathering areas, particularly those that may generate significant noise and/or light and glare, shall be located to minimize intrusion on neighboring properties.

**H. Procedures**

1. All Assisted Living and Continuing Care Campus uses and structures are subject to a Special Permit and Site Plan Review from the Planning Board in accordance with Sections 2.7 and 2.8 of this Bylaw. In addition to those requirements, all approval criteria set forth in this Section 9.5 shall apply. The Planning Board shall be the Special Permit Granting Authority for any Special Permits under this Section.
2. The Applicant shall submit a special permit application together with the size, form, number, and contents of the required plans and any supplemental information as required in the Planning Board's Rules and Regulations.

**I. Mandatory Findings**

A Special Permit and Site Plan Special Permit with any conditions, safeguards, and limitations deemed necessary to mitigate the project's impact on the surrounding area and to ensure compliance with this article may be granted for an Assisted Living or Continuing Care Campus application based upon a determination by the Planning Board that the requirements of 1.16.00 have been met and that the proposed plan is consistent with the purpose and specific requirements of this section. In evaluating a proposed development, in addition to the Special Permit Requirements in Sections 2.7 and 2.8, the Planning Board shall grant a Special Permit if it finds that the proposed development:

1. Serves the social, economic, or community needs;
2. Does not have adverse effects that outweigh its benefits on the neighborhood or Town;
3. Meets the Open Space requirements set forth in Subsection E above;
4. Provides for safe vehicular movements, and for the safety and convenience of pedestrians in a manner that is compatible with Tyngsborough's public safety requirements and the needs of those who will live there;
5. Is consistent with the Tyngsborough Master Plan as amended;

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6. Will not be substantially detrimental to the neighborhood in which it is to take place;
7. Is appropriate for the site in question; and
8. Complies with the applicable requirements of the bylaw.

J. The Planning Board may require changes to Assisted Living and Continuing Care Campus site plans and impose additional conditions, safeguards and limitations as it deems necessary to secure the objectives of this bylaw.