

**BOROUGH OF FRANKLIN  
COUNTY OF SUSSEX  
ORDINANCE 08-2018**

AN ORDINANCE TO AMEND CHAPTER 161, THE LAND  
DEVELOPMENT ORDINANCES OF THE BOROUGH OF  
FRANKLIN REGARDING THE MIXED ACTIVE ADULT  
(MAAH) HOUSING DISTRICT

**WHEREAS**, the Borough Governing Body has reviewed the Borough of Franklin 2016 Master Plan Re-Examination Report, same having been duly-adopted by the Franklin Borough Planning Board on March 21, 2016, wherein it addresses the MAAH Zone at page 9 and recommended that the said Zone be revised, modified and amended “to eliminate the age restriction limitation and to allow a density increase,” with said recommendation being repeated and reiterated at page 21 of the 2016 Master Plan Re-Examination Report, recommending the said area be “rezoned” to take into account a twenty per cent increase in density (based on the nearby Green Acres protection/acquisition) with concordant elimination of the age restriction limitation in the Zone, as more specifically stated in the said Report; and,

**WHEREAS**, the Franklin Borough Mayor and Council desire to effect the recommendation of the Borough Planning Board by way of a repeal of the Mixed Active Adult Housing (MAAH) District in the Borough’s Land Development Ordinance, Chapter 161; and

**WHEREAS**, the Franklin Borough Mayor and Council desire to instead create the Munsonhurst Planned Residential (MPR) District and further define the Open-Space Governmental Use (OS/GU) District in the Borough’s Land Development Ordinance, Chapter 161 to be substantially consistent with the 2016 Master Plan Re-Examination Report; and

**WHEREAS**, the Franklin Borough Mayor and Council introduced a proposed ordinance (17-2017) entitled “AN ORDINANCE TO AMEND CHAPTER 161, THE LAND DEVELOPMENT ORDINANCES OF THE BOROUGH OF FRANKLIN REGARDING THE MIXED ACTIVE ADULT (MAAH) HOUSING DISTRICT” at the October 10, 2017 Borough Mayor and Council meeting and thereafter referred the ordinance to the Borough Planning Board in accordance with the NJ Municipal Land Use Law, N.J.S.A. 40:55D-26; and

**WHEREAS**, the Franklin Borough Planning Board, by way of a November 9, 2017 correspondence from its counsel, David B. Brady, Esq., to Mayor Nicholas

Giordano and Members of the Franklin Borough Council submitted a report in accordance with N.J.S.A. 40:55D-26 stating certain “comments and recommendations of the Board” as more specifically recited therein; and

**WHEREAS**, the Franklin Borough Council, having received and reviewed the said report, states its appreciation to the Borough Planning Board for their diligent and careful consideration of the proposed Ordinance within the 35-day timeframe recited in N.J.S.A. 40:55D-26, and thereafter determined it necessary and appropriate to make changes and modifications to the prior proposed Ordinance in a form and fashion as recited below and to introduce a revised Ordinance anew;

**NOW THEREFORE BE IT ORDAINED** by the Mayor and Council of the Borough of Franklin as follows:

Section 1. Existing Ordinance §161-27 Zoning districts is amended as follows:

MAAH                      Mixed Active Adult Housing District

is deleted and replaced with

MPR                      Munsonhurst Planned Residential District

Section 2. Existing Ordinance §161-32(D)(2) is amended as follows:

“MAAH” is deleted and replaced with “MPR, OS/GU”

Section 3. Existing Ordinance §161-33 subsection L is repealed and replaced with the following:

L.      Munsonhurst Planned Residential (MPR) District

(1) Purpose. The purpose of the Munsonhurst Planned Residential (MPR) District is to provide an additional housing option for non-age-restricted market and low- and moderate-income households that seek to live in a community that offers high-quality, relatively maintenance-free housing, a package of amenities, and that is designed in a manner that protects the environmentally sensitive features of the area and provides an integrated open space network that connects existing and future open space and recreational assets.

(2) Lands to be included. The following tracts are hereby included within the MPR District: 138 Munsonhurst Road (Block 2701, Lot 2, formerly Block 66, Lot 17.01).

(3) Definitions. For the purpose of interpretation and implementation of this subsection, the following words and terms shall have the definitions provided. All other words and terms in this subsection shall have the definitions provided in § 161-3.

### **AGE-RESTRICTED OR ACTIVE PERSON**

A person who is 55 years of age or older, consistent with the Federal Fair Housing Act and provided that no children under 18 years of age are permitted to reside in the dwelling so restricted.

### **BUFFER**

A continuous area of open spaces, landscaped areas, fences, walls, berms or any combination thereof used to physically separate one use or property from another.

### **COMMON OPEN SPACE**

An open space area within or related to a site designated as a development and designed and intended for the use or enjoyment of residents and owners of the development. Common open space may contain such complementary structures and improvements as are necessary and appropriate for the use or enjoyment of residents and owners of the development. This may include lands set aside as environmentally sensitive or otherwise restricted from use by agencies of the State of New Jersey or of the United States.

### **FAIR HOUSING ACT**

The Fair Housing Act, Federal Fair Housing Amendments Act of 1988, P.L. 100-430 (September 13, 1988) and amendments thereto, including, but not limited to, the Housing for Older Persons Act of 1995, P.L. 104-76 (December 1995), and any judicial or administrative interpretations or decisions affecting said legislation.

### **FRONT OF BUILDING**

For residential buildings where there is direct entrance from the exterior to each dwelling unit therein, the "building front" shall mean all exterior walls that face a public or private road or common open space. Such buildings may have two fronts and no rear. For residential buildings where there is a common entrance from the exterior to all dwelling units therein, the "building front" shall mean all exterior walls in which such common entrance is located.

### **INTERNAL ROADWAY**

A traveled way or cartway providing access from an exterior public street to parking areas and/or private driveways.

## SCREENING

A method of visually shielding an abutting or nearby structure or use from another by fencing, walls, berms or reasonably sized plantings.

(4) The permitted principal use shall be attached single-family/townhouse and/or multifamily housing as regulated herein. These dwellings shall be occupied in accordance with § 161-33L(7) and (8).

(5) Permitted accessory uses and structures shall be as follows:

(a) Signs. One sign identifying the development shall be located at the entrance from Munsonhurst Road. The sign shall have a maximum of two sign faces, not to exceed 50 square feet per side. In the case of monument signs, the sign area shall be defined as the message area of the sign, not including the basic monument structure. Directional signs are permitted at the end of the boulevard. Other signs shall be provided as otherwise regulated in Borough ordinances.

(b) Recreational uses, such as, but not limited to, common open spaces, walking paths, gazebos, swimming pools, putting greens and tennis courts.

(c) Clubhouse buildings, which may include athletic and recreational facilities, meeting rooms, club rooms and other facilities for social activities, homeowners' association offices, a wellness center, mailboxes, maintenance and equipment storage and ancillary kitchen facilities.

(d) Restaurant, catering and banquet facilities.

(e) Private and shared garages and off-street parking for private vehicles.

(f) Fences and walls.

(g) Administration or management offices, gatehouses, maintenance, storage and utility buildings.

(6) Area, bulk and yard requirements shall apply to the entire lot and shall be as follows:

(a) Minimum gross lot area: 69 acres.

(b) Minimum building setbacks from external lot lines: 75 feet.

(c) Maximum number of dwelling units in the MPR Zone District: 300 dwelling units (including affordable units).

(d) Maximum allowable site disturbance: 50%, pursuant to the requirements of § 161-33L(14).

(7) Area, bulk and yard requirements shall apply to the entire lot, inclusive of any property that may, as part of a development application, be subdivided from the original lot to be dedicated to the Borough of Franklin. Requirements for the

multifamily development on 138 Munsonhurst Road (Block 2701, Lot 2, formerly Block 66, Lot 17.01), shall be as follows:

- (a) Maximum number of units: 300 units.
- (b) Maximum density: 4.29 units per acre.
- (c) Maximum building coverage: 10% of total lot area.
- (d) Maximum total impervious coverage: 30% of total lot area.
- (e) Minimum common open space: 50% of total lot area.
- (f) Maximum building height: four stories or 55 feet. The height

exceptions as defined in § 161-31 shall also apply to bulkheads for elevator shafts. Moreover, where the height of any building containing living residential living space and the extraction point (in event of fire or other emergency) exceeds a 35 foot height from the exterior ground, the developer shall be required to present proof to the satisfaction of the Planning Board, as guided by qualified professionals, that there are appropriate and sufficient measures in building design and engineering controls to provide for the reasonable safety of residents.

- (g) Maximum building length: 250 feet.

(h) Minimum horizontal breaks in building facade: one break that varies the setback by a minimum of four feet for every 50 feet of building length. A break may consist of a balcony, patio, porch, deck or overhang.

- (i) Rooflines must be varied in order to reduce the scale of the building.

(j) Minimum distance between buildings: not less than 1.5 times the maximum height of the proposed building.

- (k) Minimum distance from buildings to internal roadway: 25 feet.

(l) Minimum distance to common parking area: 10 feet (except where parking is provided beneath building).

(8) Requirements for low- and moderate-income housing:

(a) The building design for the low- and moderate-income units must be similar in style and character to the building design for the other dwelling units.

(b) The income based restriction shall be set forth in a master deed or other recorded instrument applicable to all of the income limited dwellings in the development. The master deed or other recorded instrument shall contain procedures governing the sale, transfer and rental of income limited units within the district so that the developer and homeowners' association can enforce the occupancy restrictions set forth herein. The master deed or other recorded instrument may be recorded on a phased basis as long as the restriction applies to every income restricted dwelling within the phase. The income restrictions shall also be set forth or referred to in every deed of conveyance of an individual income-restricted dwelling unit in the development.

(9) Extensions into the required separations between buildings, and setbacks from buildings to streets, parking areas and external lines shall be permitted as follows:

- (a) By eaves with an overhang of not more than two feet.
- (b) By rainwater leaders, windowsills, chimneys and other such fixtures.
- (c) By bay windows not more than 12 feet wide and for a depth not to exceed three feet.
- (d) By an open porch or steps leading into the building, which shall not have any sidewall or other enclosure and may have a fixed roof, canopy or other covering, limited to the dimensions of said porch.
- (e) By a patio, provided that the surface shall be not more than 18 inches above the ground level and that the improved area shall be without walls and railings, and shall be without a roof, canopy or other fixed covering.
- (f) By cantilevered balconies.

(10) Accessory structure requirements.

- (a) Except for fences and retaining walls, accessory buildings and structures shall meet the property line setbacks of principal buildings.
- (b) Minimum accessory building setback to residential buildings: 25 feet.
- (c) Minimum accessory building setback to another accessory building: 15 feet.
- (d) Minimum setback of swimming pools, tennis courts and other surfaced recreation facilities to external property lines: 50 feet.
- (e) Maximum height (other than clubhouse): 35 feet.
- (f) Clubhouse buildings shall be set back from all internal roadways by at least 25 feet. Parking areas for clubhouse buildings shall be set back at least 10 feet from the building. The maximum height of clubhouse buildings shall be 45 feet.

(11) Age-restricted occupancy restrictions.

- (a) Any age-restricted housing in the MPR District is subject to an age restriction whereby each market-rate unit shall be occupied by at least one person 55 years of age or older. Fifty percent (50%) of the affordable housing units in the development must be age-restricted.
- (b) In accordance with the exemption under the Fair Housing Act, no permanent resident of the age-restricted housing shall be under the age of 18.
- (c) The foregoing occupancy restriction is intended to qualify all housing within the district as "55 or Over Housing" under the "Housing for Older Persons Act" exemption of the Fair Housing Act.
- (d) This restriction shall not apply to resident employees such as a manager or superintendent, or to any affordable units provided within the project.
- (e) The foregoing occupancy restriction shall be set forth in a master deed or other recorded instrument applicable to all of the age-restricted dwellings in the

development. The master deed or other recorded instrument shall contain procedures governing the sale, transfer and rental of units within the district so that the developer and homeowners' association can enforce the occupancy restrictions set forth herein. The master deed or other recorded instrument may be recorded on a phased basis as long as the above occupancy restriction applies to every dwelling within the phase. The above occupancy restrictions also shall be set forth or referred to in every deed of conveyance of an individual age-restricted dwelling unit in the development.

(12) Common open space implementation requirements.

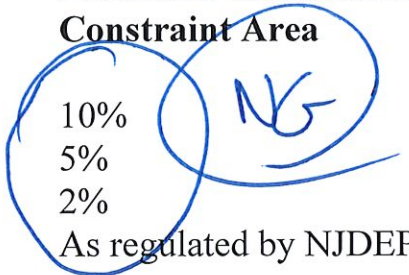
(a) Open space areas shall be preserved by permanent deed restriction for active or passive recreation space. All or part of this open space area may, at the discretion of the developer, be dedicated to the Borough or maintained as a common open space. The Borough is under no obligation to accept such dedication, if offered.

(b) Active recreation space shall be improved with facilities, buildings and structures for indoor and outdoor recreational activities consistent with the residential character of the development and the lifestyle needs of the residents therein.

(c) All active open space shall be connected to residential areas with walkways or other reasonable means of access.

(13) Environmentally constrained areas.

(a) No environmentally constrained area shall contain any structures or impervious surfaces, nor shall any land disturbance be permitted, except that structures and impervious surfaces may be constructed and land may be disturbed within environmentally constrained areas to the extent provided for in the following table, existing and proposed roads excepted:

<b>Constraint Category</b>	<b>Permitted Land Disturbance within Constraint Area</b>
Steep slopes	 10% 5% 2% As regulated by NJDEP
15% to 20%	
Between 20% and 25%	
Greater than 25%	
Wetlands/Transition areas	
Rock outcrops, high groundwater and shallow bedrock	Any proposed disturbance of or construction on lands containing these constraint categories shall be required to demonstrate engineering feasibility.

Riparian buffers, floodplains or any USGS identified streams

As regulated by N.J.A.C. 7:8 Stormwater Management Rules and N.J.A.C. 7:13 Flood Hazard Area Control Act Rules.

(b) Man-made steep slopes, such as those associated with rights-of-way and culverts, are exempt from the disturbance limitations.

(c) These sections supersede the requirements set forth in § 161-25, regarding environmentally sensitive areas, of the Franklin Code for the property included in the MPR Zone District.

(14) Roads and circulation.

(a) Development of all tracts within the MPR District shall be served by a single access road, the design of which shall include a boulevard style configuration and be consistent with New Jersey Residential Site Improvement Standards requirements. The minimum dimensions of a boulevard road shall provide one 12-foot wide travel lane in each direction, separated by a minimum 4-foot curbed island. Notwithstanding the foregoing, if it can be shown that the disturbance area limitations or other features associated with a boulevard style entrance will be disapproved by NJDEP, then the curbed island can be eliminated and a typical two-lane access road can be constructed, the width of which will be up to 36' wide as appropriate.

(b) Right-of-way access from the proposed roadway to 130 Munsonhurst Road (Lot 3, Block 2701, formerly Lot 1, Block 66), and 90 Munsonhurst Road (Lot 28, Block 2401, formerly Lot 23, Block 74) shall be continued,

(c) The existing driveway/access road to the municipal well at the south of the property shall be improved and maintained for emergency vehicle access.

(15) General design standards.

(a) Buffer. The developer shall provide and maintain a buffer area inclusive of the required yard of not less than 50 feet from all external lot lines of the development. The buffer area shall, to the extent possible, be kept in its natural state where wooded. Where natural vegetation is sparse or nonexistent, the area shall be supplemented and planted to provide a year-round natural vegetative screen. The required buffer area shall be included for the purpose of computing compliance with the common open space requirements and yard setback requirements of this chapter. Only the following uses shall be permitted in a buffer area:

- [1] Detention and stormwater management basins.
- [2] Underground utilities.
- [3] Walkways, trails and bicycle paths.
- [4] Roadways.
- [5] Fences and retaining walls, where needed.



[6] A gatehouse.

[7] Parking spaces and a driveway for the low- and moderate-income units.

(b) Landscaping. Landscaping shall be provided throughout the development site to provide a natural setting for building structures and recreational facilities. All islands or unpaved areas within a street shall be landscaped. Existing vegetation will be retained and maintained to the greatest extent possible. Indigenous vegetation shall be chosen for its weather-tolerant and decorative qualities, as well as its ability to support native wildlife.

(c) Walkways shall be provided between residential buildings and common parking areas and to all amenities provided on the site. Walkways shall have a minimum width of four feet and shall meet ADA grade requirements when required.

(d) No natural vegetation shall be disturbed except as approved by the Planning Board pursuant to a site plan application. The site plan shall indicate the maximum area of clearing and the natural areas to be maintained.

(e) Adequate lighting fixtures for walks, steps, parking areas, driveways, streets and other facilities shall be provided at locations to provide for the safe and convenient use of the same. Fixtures shall be situated and designated in keeping with the character of the development and shall be adequately shielded to screen windows of dwelling units, both off and on the development site, from direct and indirect light. No flashing, intermittent, moving light shall be permitted.

(f) Air-conditioning units in excess of 2,500 BTUs shall be screened and insulated for aesthetic and acoustical purposes if they are less than 10 feet from sidewalks.

(16) Circulation and parking standards.

(a) All public streets, internal roadways and private driveways shall be designed and constructed in accordance with the requirements of the New Jersey Residential Site Improvement Standards. Private driveways shall be designed and constructed in accordance with the applicable sections of the Franklin Borough Land Development Standards.

(b) A gatehouse may be located at the entrance to a development in the MPR District.

(c) Residential off-street parking shall be provided in accordance with the New Jersey Residential Site Improvement Standards. All other parking shall be designed and constructed in accordance with the applicable sections of the Franklin Borough Land Development Standards.

(d) Required off-street parking for residents must be provided in private driveways and garages, common garages under residential buildings, or surface parking facilities. Visitor parking may also be provided in surface parking lots.

(e) Said parking shall be landscaped, lighted and conveniently located within 150 feet of the building to be served, with the exception of guest parking.

(17) Ownership and maintenance. The ownership and maintenance requirements of developments in the MPR District shall be in accordance with the regulations of the New Jersey Department of Community Affairs.

(18) Affordable housing obligation. In accordance with the housing element of the Borough's Master Plan, the developers of the properties within the MPR District has the obligation to provide affordable housing as detailed below:

(a) All developments within the MPR District shall include a set-aside of low- and moderate-income housing units at a rate of twenty percent (20%) of the total number of units in the development.

(b) The affordable housing obligation shall be satisfied by constructing affordable housing units within the development, consistent with Council on Affordable Housing (COAH) and any other applicable requirements. Fifty per cent (50%) of the affordable housing units must be age-restricted in accordance with the obligation noted in 11(a), above.

(c) The specific mix of the above designations shall be set forth in a written agreement between the Borough and the developer.

(19) Developments subject to applicable ordinances.

(a) Except as indicated below, any development in the MPR District shall be subject to all applicable ordinances of the Borough of Franklin. Where there is any conflict between the provisions of this subsection and the provisions of the Site Plan Ordinance and/or the Land Subdivision Ordinance, the provisions of this subsection shall prevail.

[1] Section 161-25B, regarding design and building layout requirements.

[2] Section 161-25 regarding environmentally sensitive areas.

(b) Required studies. Each major site plan application for uses permitted pursuant to this subsection shall include the following, unless waived upon a showing of good cause in the sole and unfettered discretion of the Planning Board:

[1] Environmental impact statement.

[2] Traffic analysis study.

[3] Fiscal impact analysis study

[4] Site development stormwater plan.

M. Open-Space Governmental Use (OS/GU) District.

(1) Purpose. The purpose of the Open-Space Governmental Use (OS/GU) District is to delineate open space area in the Borough in accordance with state law

and regulation, and any applicable deed restrictions and encumbrances as more specifically stated on instrument(s) and covenant(s) of record for such property/ies.

Section 4. This Ordinance vacates and replaces Ordinance 20-2017 in its entirety.

Section 5. Zoning Map and Authority. Upon final adoption, publication and passage in accordance with law, the Franklin Borough Zoning Map shall be modified to reflect the changes as stated herein, and all Borough officials, staff, and professionals are directed and empowered to take any necessary action(s) to see to its implementation and effect.

Section 6. Severability. If any provision of this ordinance or the application of this ordinance to any person or circumstances is held invalid, the remainder of this ordinance shall not be affected and shall remain in full force and effect.

Section 7. Repealer. All ordinances or parts of ordinances or resolutions inconsistent or in opposition to the provisions of this Ordinance are hereby repealed in their entirety.

Section 8. Effective Date. This ordinance shall take effect after publication and passage in accordance with law.

Attest:




Darlene J. Tremont  
Acting Municipal Clerk



Nicholas Giordano, Mayor

### NOTICE

TAKE NOTICE that the above entitled Ordinance 08-2018 was introduced at a regular meeting of the Borough Council of the Borough of Franklin on June 12, 2018 and will be considered for final passage after a public hearing at a regular meeting of the Borough Council of the Borough of Franklin to be held on July 10, 2018 at 7:00 p.m. in the Municipal Building, 46 Main Street, Franklin, New Jersey.



Darlene J. Tremont, Acting Municipal Clerk

## COUNCIL VOTES FOR ORDINANCE 08-2018

RECORD OF COUNCIL VOTES-FIRST READING					Move	2nd
COUNCIL MEMBER	AYES	NAYES	ABSTAIN	ABSENT		
PHILLIP CRABB	X					
DAWN FANTASIA, PRESIDENT	X				X	
JOSEPH LIMON				X		
JOHN POSTAS	X					
STEPHEN SKELLENGER	X					X
GILBERT SNYDER	X					
MAYOR GIORDANO (Tie Only)						

RECORD OF COUNCIL VOTES-SECOND READING					Move	2nd
COUNCIL MEMBER	AYES	NAYES	ABSTAIN	ABSENT		
PHILLIP CRABB	X				X	
DAWN FANTASIA, PRESIDENT	X					
JOSEPH LIMON				X		
JOHN POSTAS	X					
STEPHEN SKELLENGER	X					X
GILBERT SNYDER	X					
MAYOR GIORDANO (Tie Only)						

**BOROUGH OF FRANKLIN  
LEGAL NOTICE**

**ORDINANCE #08-2018  
AN ORDINANCE TO AMEND CHAPTER 161, THE LAND  
DEVELOPMENT ORDINANCES OF THE BOROUGH OF  
FRANKLIN REGARDING THE MIXED ACTIVE ADULT  
(MAAH) HOUSING DISTRICT**

NOTICE is hereby given that the above Ordinance was introduced and passed on first reading at a meeting of the Borough Council of the Borough of Franklin, in the County of Sussex, State of New Jersey, held in the Borough Municipal Building, 46 Main Street, Franklin, NJ, on the 12<sup>th</sup> day of June, 2018, and the same came up for final passage at a meeting of the said Borough Council on the 10<sup>th</sup> day of July, 2018, at which time, after persons interested were given an opportunity to be heard concerning said ordinance, the same was passed and will be in full force in the Borough according to law by order of the Borough Council of the Borough of Franklin, County of Sussex and State of New Jersey.

  
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Darlene J. Tremont, Acting Municipal Clerk