

## **RESIDENTIAL INCLUSIONARY DEVELOPMENT**

### **1.1.1. Purpose.**

The purpose of this bylaw is to promote the general public welfare, including but not limited to ensuring an economically integrated and diverse community by maintaining and increasing the supply of affordable and accessible housing in the Town of Stockbridge. This purpose includes:

1. Ensuring that new development generates affordable housing as defined in Section 1.1.2.
2. Ensuring that affordable housing created under this section remains affordable over the long term, with the majority of such housing remaining affordable in perpetuity, except as may be otherwise required under state or deferral programs.
3. Maintaining a full mix of housing types while providing affordable housing opportunities in Stockbridge.
4. To the extent allowed by law, ensuring that preference for new affordable housing is given to eligible persons who live or work in Stockbridge.

### **1.1.2. Definitions**

The following terms shall have the following definitions for the purposes of this section:

1. "Affordable to persons or families qualifying as low income" shall mean affordable to households or persons earning less than 50% of the median income under the applicable guidelines of the Commonwealth's Department of Housing and Community Development.
2. "Affordable to persons or families qualifying as moderate income" shall mean affordable to households or persons earning more than 50% but less than 80% of the median income under the applicable guidelines of the Commonwealth's Department of Housing and Community Development.
3. "Affordable units" shall mean any combination of dwelling units restricted in perpetuity as affordable to persons or families qualifying as low or moderate income.
4. Units shall refer to residential housing units or hotel rooms, in the case of the latter one hotel room equals one unit.

### **1.1.3. Applicability**

In all zoning districts, the following regulations shall apply to development in Stockbridge where the number of units exceeds 9.

1. All development requiring a Special Permit and resulting in additional new hotel rooms or dwelling units shall provide affordable housing units at the following minimum rates:

| <b>Total Development Unit Count</b> | <b>Required Affordable Unit Provision</b> |
|-------------------------------------|-------------------------------------------|
| 10 – 19 units                       | Minimum one (1) dwelling unit             |
| 20 – 29 units                       | Minimum two (2) dwelling units            |
| 30 units and up                     | Minimum 10% of total unit count*          |

\* For developments of 30 or more units, calculation of the number of affordable units shall, if the required percent of the total results is a fraction, be rounded up to the next whole number where the fractional portion is equal to 0.5 or greater, and shall be rounded down to the next whole number where the fractional portion is less than 0.5.

2. Applicants for development who are not subject to the requirements of Section 1.1.3.1 may voluntarily include affordable units and are eligible to apply for a special permit for the density bonus outlined in Section 1.1.6.2.

#### 1.1.4. Special Permit Authority

The development of any project set forth in Section 1.1.3 (above) shall require the grant of a Special Permit from the Stockbridge Board of Selectmen (SBOS). The Special Permit shall conform to the requirements of this bylaw and to Massachusetts General Laws Chapter 40A, and to regulations which the Board of Selectmen may adopt for carrying out its requirements hereunder.

#### 1.1.5. Minimum Requirements for Inclusionary Development

An Inclusionary Development Special Permit shall be subject to the following conditions, and the SBOS shall make a determination that the proposed development meets the requirements for granting a Special Permit, as well as the following conditions:

1. Buffer Areas. A buffer area of 50 feet shall be provided at the perimeter of the property where it abuts residentially zoned or occupied properties, except for driveways necessary for access and egress to and from the site. No vegetation in this buffer area will be disturbed, destroyed or removed, except for normal maintenance. The SBOS may reduce the buffer requirement to no less than 25 feet (i) where the land abutting the site is the subject of a permanent restriction for conservation or recreation or (ii) where the land abutting the site is held by the Town for conservation or recreation purposes; unless the SBOS determines that a smaller buffer will suffice to accomplish the objectives set forth herein.
2. Each inclusionary development shall provide, at the applicant's choice, one of the following:
  - a. Construct or rehabilitate affordable units comparable in appearance and setting to the rest of the development or neighborhood.
  - b. A cash payment equivalent to the value of structures, land and appropriate on-site and off-site improvements, be made to the Town of Stockbridge Affordable Housing Trust Fund. The cash payment shall be equal to the total cost of construction for each low or moderate income dwelling unit. The conditions of payment shall be determined through the Special Permit process.
  - c. As a condition for granting of a Special Permit, all affordable housing units shall be subject to an affordable housing restriction and a regulatory agreement in

the form acceptable to the SBOS. The affordable restriction shall be approved as to form by legal counsel to the Board of Selectmen and a right of first refusal upon the transfer of such restricted units shall be granted to the Town or its designee for a period of not less than 120 days after notice thereof. The regulatory agreement shall be consistent with any applicable guidelines issued by the Department of Housing and Community Development and shall ensure that affordable units can be counted toward the Stockbridge Subsidized Housing Inventory. The special permit shall not take effect until the restriction, the regulatory agreement and the special permit are recorded at the Registry of Deeds and a copy is provided to the SBOS and the Building Inspector.

#### 1.1.6. Dimensional Requirements

1. Design Process. Each development plan shall follow the design process outlined below. When the development plan is submitted, applicants shall be prepared to demonstrate to the Board of Selectmen that this process was considered in determining the layout of the proposed inclusionary development.
  - a. Understanding the Site. The first step is to inventory existing site features, taking care to identify sensitive and noteworthy natural, scenic and cultural resources on the site, and to determine the connection of these important features to each other.
  - b. Evaluating Site Context. The second step is to evaluate the site in its larger context by identifying physical (e.g., stream corridors, wetlands), transportation (e.g., road and bicycle networks), and cultural (e.g., recreational opportunities) connections to surrounding land uses and activities.
  - c. Location of Development Areas. The third step is to locate building sites, streets, parking areas, paths and other built features of the development. The design should include a delineation of private yards, public streets and other areas, and shared amenities, so as to reflect an integrated community, with emphasis on consistency with the Town's historical development patterns as well as any exiting historical architectural and landscape features.
2. The applicant shall prepare a plan showing the Basic Maximum Number of dwelling units allowed in the zoning district. The Basic Maximum Number shall not exceed the number of units which could reasonably be expected to be developed upon the site under a conventional as of right plan in full conformance with all zoning, subdivision regulations, health regulations, wetlands regulations and other applicable federal, state and local requirements (hereinafter, the Yield Plan). The proponent shall have the burden of proof with regard to the design and engineering specifications for such Yield Plan. The SBOS may award a density bonus to increase the number of dwelling units beyond the Basic Maximum Number as follows: The SBOS has the discretion to award the addition of two market rate units for each affordable unit provided as part of compliance with Section 1.1.3.
3. The street line and lot line setbacks, minimum lot size and minimum frontage of the proposed inclusionary development will be determined through the Special Permit

process as outlined in Section 1.1.6.1. At least 50% of the lot line setback shall be maintained.

#### 1.1.7. Types of Buildings

The inclusionary development may consist of any combination of single-family, two-family, multifamily residential structures or other allowable uses under Stockbridge's Zoning Bylaws.

#### 1.1.8. Roads

The principal roadway(s) serving the site shall be designed to conform with the standards of the Town where the roadway is or may be ultimately intended for dedication and acceptance by the Town. Private ways shall be adequate for the intended use and vehicular traffic and shall be maintained by an association of unit owners or by the Applicant.

#### 1.1.9. Parking

Each dwelling unit shall be served by two (2) off-street parking spaces. Parking spaces in front of garages may count in this computation.

#### 1.1.10. Stormwater Management

Stormwater management shall be consistent with the requirements for subdivisions set forth in the Rules and Regulations of the Planning Board.

#### 1.1.11. Decision

The SBOS may approve, approve with conditions, or deny an application for an Inclusionary Development after determining whether the Inclusionary Development promotes the purposes of Section 1.1.1.

#### 1.1.12. Relation to Other Requirements

The submittals and permits of this section shall be in addition to any other requirements of the Subdivision Control Law or any other provisions of this Zoning Bylaw.

#### 1.1.13. Maximum Incomes and Selling Prices: Initial Sale:

1. To ensure that only eligible households purchase affordable housing units, the purchaser of an affordable unit shall be required to submit copies of the last three years federal and state income tax returns and certify, in writing and prior to transfer of title, to the developer of the housing units or his/her agent, and within thirty (30) days following transfer of title, to the local housing trust, housing authority or other agency as established by the town, that his/her or their family's annual income level does not exceed the maximum level as established by the Commonwealth's Department of Housing and Community Development, and as may be revised from time to time.
2. The maximum housing cost of affordable units created under this bylaw is established by the Commonwealth's Department Housing and Community Development, Local Initiative Program.

1.1.14. Reservation of Affordability; Restrictions on Resale:

1. Each affordable unit created in accordance with this bylaw shall have limitations governing its resale through the use of a regulatory agreement (Section 1.1.5.2.c). The purpose of these limitations is to preserve the long-term affordability of the unit and to ensure its continued availability for affordable income households. The resale controls shall be established through a restriction on the property and shall be in force in perpetuity.
  - a. Resale price. Sales beyond the initial sale to a qualified affordable income purchaser shall include the initial discount rate between the sale price and the sale price and the unit's appraised value at the time of resale. The percentage shall be recorded as part of the restriction on the property noted in Section 1.1.14.1, above.
  - b. Right of first refusal to purchase. The purchaser of an affordable housing unit developed as a result of this bylaw shall agree to execute a deed rider prepared by the town, consistent with model riders prepared by Department of Housing and Community Development, granting, among other things, the municipality's right of first refusal to purchase the property in the event that a subsequent qualified purchaser cannot be located.
  - c. The SBOS shall require, as a condition for Special Permit under this bylaw, that the applicant comply with the mandatory set-asides and accompanying restrictions on affordability, including execution of the deed rider noted in Section 1.1.14.1.b, above. The Building Inspector shall not issue an occupancy permit for any affordable unit until the deed restriction is recorded.

1.1.15. Conflict with Other Bylaws:

The provisions of this bylaw shall be considered supplemental of existing zoning bylaws. To the extent that a conflict exists between this bylaw and others, the more restrictive bylaw, or provisions therein, shall apply.

1.1.16. Severability:

If any provision of this bylaw is held invalid by a court of competent jurisdiction, the remainder of the bylaw shall not be affected thereby. The invalidity of any section or section or parts of any section of this bylaw shall not affect the validity of the remainder of the town's zoning bylaw.