

6.31. RESIDENTIAL INCLUSIONARY DEVELOPMENT

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 1.2.
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.

1.2. Definitions

The following terms shall have the following definitions for the purposes of this Section 6.31:

1. "Affordable Housing" shall mean a unit that is affordable to and occupied by a low- or moderate-income household and meets the requirements for inclusion in the Chapter 40B Subsidized Housing Inventory.
2. "Maximum Resale Price" shall mean the sum of:
 - a. The initial sale price divided by the Area Median Income (AMI) for a four (4)-person household, then multiplied by the AMI for a four (4)-person household at the time that the Affordable Housing Unit is offered for resale; plus
 - b. 2% of the initial sale price for marketing and brokers' fees; plus
 - c. The original cost of capital improvements as evidenced by receipts with proof of payment submitted to the Stockbridge Board of Selectmen (SBOS), depreciated by 10% per year from date of expenditure.
 - d. In no event shall the Maximum Resale Price exceed the purchase price for which a Qualified Purchaser earning 80% of the AMI for a household the size of the Qualified Purchaser's household could obtain mortgage financing using the same methodology then used by Department of Housing and Community Development's (DHCD) for its Local Initiative Program (LIP) or similar program.
3. "Qualified Purchaser" shall mean an individual or household earning no more than 80% of Area Median Income as determined by Department of Housing and Urban Development (HUD) income limits which includes Stockbridge. To be considered a Qualified Purchaser, the individual or household must intend to occupy and thereafter must occupy the Unit as their principal residence.

3. “Unit” shall mean a residential housing unit.

1.3. Applicability

The provisions of this Section 6.31 shall apply to all new or substantial renovation of residential development in Stockbridge where the number of units exceeds 9.

1.4. Special Permit Authority

The development of any project under Section 6.31.1.3 shall require the grant of an Inclusionary Development Special Permit from the 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.

1.5. Minimum Requirements for Inclusionary Development

Development subject to this Section 6.31 shall provide at a minimum, at the applicant’s choice, one of the following:

1. a. Include onsite affordable housing units at the following minimum rates:

Total Development Unit Count	Required Affordable Unit Provision
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.

Affordable Housing Units provided under this subsection shall be dispersed throughout the buildings in the development and must be indistinguishable with regard to finishes, amenities, total square footage, room size, and construction from the development’s market rate units with the same number of bedrooms.

b. Construct or rehabilitate one or more Affordable Housing Units off site that equal or exceed in construction cost the average construction cost of the development’s housing units. The offsite Affordable Housing Units provided under this subsection must be comparable in finishes, amenities, total square footage, room size, and construction to that of the housing in the rest of the development.

c. A cash payment equivalent to 5 times 80% of the AMI as determined by HUD income limits which includes Stockbridge for every ten (10) new units of market rate Units.

As a condition for granting of a Special Permit, all Affordable Housing Units shall be subject to

an affordable housing restriction perpetuated in a deed in the form acceptable to the SBOS, enforceable in perpetuity under the applicable provisions of G.L. c. 184 and including the right of first refusal described in Section 1.10.1.b, *infra*. The affordable restriction shall be approved as to form by legal counsel to the SBOS. The Special Permit must be recorded at the Berkshire Middle Registry of Deeds and a copy noting the Book and Page of recording filed with the SBOS and Building Commissioner.

1.6. Types of Building

The development subject to this Section 6.31 may consist of any combination of single-family, two-family, multifamily residential structures or other allowable uses under the applicable zoning district of the Town of Stockbridge Zoning Bylaw.

1.7. Decision

The SBOS may approve with conditions or deny an application for an Inclusionary Development Special Permit after determining whether the Inclusionary Development promotes the purposes of this Section 6.31 and is otherwise consistent with the purposes of the Zoning Bylaw.

1.8. Relation to Other Requirements

The provisions of this Section shall be in addition to any other requirements of the Subdivision Control Law G.L. c. 41 or any other provisions of the Town of Stockbridge Zoning Bylaw. To the extent that a conflict exists between this bylaw and others, the more restrictive bylaw or provisions therein shall apply.

1.9. Maximum Incomes and Selling Prices: Initial Sale

1. The developer must ensure that only Qualified Purchasers purchase an Affordable Housing Unit.
2. The Affordable Housing Units shall initially be sold to a Qualified Purchaser for no more than the maximum price as established under affordability guidelines by DHCD or a successor agency in effect at the time the Unit is built.
3. The SBOS may condition the Special Permit on a requirement that the Affordable Housing Unit be first offered for sale to a Qualified Purchaser who is a current resident of Stockbridge.

1.10. Reservation of Affordability; Restrictions on Resale or Rent

1. Each Affordable Housing Unit created in accordance with this Section 6.31 shall be subject to resale restrictions through the use of a deed restriction or deed rider. 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.
 - a. Resale price. No sale after the initial sale shall be valid unless the aggregate value of all consideration and payments of every kind given or paid by the Qualified Purchaser is equal to or less than the Maximum Resale Price.

- 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, Stockbridge's right of first refusal to purchase the unit in the event that a subsequent qualified purchaser cannot be located within 365 days of the unit being offered for sale. The owner must notify the Board of Selectmen in writing when the 365 days have passed without sale. By vote of the Board of Selectmen, Stockbridge may assign the right of first refusal to purchase to the Stockbridge Affordable Housing Trust, or any other governmental or non-profit organization committed to preserving and maintaining affordable housing. The right is exercisable by Stockbridge or its assignee within 150 days of offer.
- 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.
- d. In the event that a Qualified Purchaser cannot be found and the right of first refusal is not exercised, the Affordable Housing Unit may be sold at market rate and the Town shall take any and all steps necessary to extinguish the affordable restriction described in Section 1.5.
- e. Units subject to an affordable restriction under this bylaw cannot be rented.

1.11. 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.