

SECTION 5.7. INCLUSIONARY ZONING

A. Purpose

The purpose of Inclusionary Zoning is to recognize the affordable housing need in Wellesley; to require applicants for development projects having a significant impact on the Town to contribute toward this need; to encourage the expansion and upgrade of the Town's affordable housing in order to provide for a full range of housing choices for households of all incomes, ages and sizes; to prevent the displacement of low to moderate income Wellesley residents; to increase the production of affordable housing units; and to encourage affordable housing to be incorporated into new development projects.

B. Applicability

The provisions of this section shall apply to all projects requiring approval as

1.) Major Construction Projects in Business Districts, Business Districts A, Industrial Districts, Industrial Districts A, Wellesley Square Commercial District, Residential Incentive Overlay Districts, and Lower Falls Village Commercial District involving:

- (a) construction of twenty-five hundred (2,500) or more square feet gross floor area or
- (b) an increase in gross floor area by fifty (50) percent or more which results in a gross floor area of at least twenty-five hundred (2,500) square feet or
- (c) any project meeting the definition of an "MBTA Community Project" and

2.) to subdivisions on sites having a development potential under current zoning of five or more lots for One-Unit Dwellings.

The provisions of this section shall not apply to any project undertaken by the Town for any municipal purposes.

C. Requirements

An applicant for a project defined in Section 5.7.B., above, shall provide in conjunction with that project, a minimum ratio of Assisted Units on the project site in accordance with the following:

1. .02 Assisted Units per each 1,000 square feet of floor area in the project devoted to any allowed use other than Dwelling Units; and
2. No less than .20 of all residential units shall be Affordable Units, comprised of the following affordability mix:
 - (a) .15 shall be made available to individuals or households whose annual income is at or below eighty percent (80%) of the area-wide median income ("AMI" as determined by the United States Department of Housing and Urban Development ("HUD")), adjusted for household size, with income computed using HUD's rules for attribution of income to assets, and

(b) .05 shall be made available to individuals or households whose annual income is greater than eighty percent (80%) and no greater than one hundred forty percent (140%) of the AMI, at the Town's discretion.

The above ratios will apply in any mixed-use project which includes both Dwelling Units and floor area devoted to any allowed use other than Dwelling Units. If the project's required ratio includes any fraction of an Assisted Unit, the project's obligation with respect to such fractional Assisted Unit shall be determined in accordance with Section 5.7.D.3. below.

D. Alternatives to Satisfy Assisted Unit Ratio

The following alternatives may be used to satisfy the requirements of Section 5.7.C.1. and 2. above, subject to the issuance of a special permit by the Planning Board acting as Special Permit Granting Authority:

1. Assisted Units may be located on land within the Town of Wellesley other than on the project site; and/or
2. A cash contribution may be made to the Affordable Housing Trust fund as a payment-in-lieu of providing the required ratio of Assisted Units on the project site. Moneys so deposited with in such trust fund account shall only be used to provide Assisted Units within the Town according to the required ratio for that project; and/or
3. If the required ratio calculated under Section 5.7.C.1. and 2. above includes any fractional Assisted Unit, the project's obligation with respect to such fractional Assisted Unit may be satisfied either by providing a whole Assisted Unit for such fractional Assisted Unit either on the project site or off the project site or by making a cash contribution under Section 5.7.D.2. above in the amount equal to the product of (a) such fraction multiplied by (b) the cash contribution for a whole Assisted Unit determined under Section 5.7.E. below. In a mixed use development fractional Assisted Units attributable to commercial and residential must be accounted for separately, and may not be added together.

E. Determination of Cash Contribution

The amount of the cash contribution described in Section 3.7.D.2. above shall be determined by the Planning Board and shall be the amount equal to the product of (1) the required number of Assisted Units multiplied by (2) the difference in sale price between an Assisted Unit and a Conventional Unit. For the purposes of determining the amount of the cash contribution, an Assisted Unit shall be deemed to have at least three bedrooms and 1,500 square feet of living space.

The sale price for the Assisted Unit shall be determined in accordance with the Local Initiative Program regulations of the Executive Office of Housing and Livable Communities (EOHLC) at 760 CMR 45.00 or any successor regulations or program of EOHLC establishing guidelines for low or moderate income housing programs that qualify under General Laws Chapter 40B. The sale price for the Conventional Unit shall

be based on the current median sale price in the Town for Conventional Units similar in size and type to the Assisted Unit.

F. General Provisions

1. The Planning Board shall be charged with administering this by-law and shall promulgate rules and regulations to implement its provisions.
2. To the extent practicable, Assisted Units shall be dispersed throughout the project unless they are to be provided on other land. The Assisted Units shall be indistinguishable in external appearance from any market-rate housing units in the project.
3. Accessible unit(s), not to exceed 15% of the total number of units, may be required in any project.
4. Tenants or purchasers, as the case may be, shall be selected for the Assisted Units by, and in accordance with the procedures of, the Affordable Housing Trust.
5. The Assisted Units shall remain so in perpetuity in accordance with a deed restriction or other method satisfactory to the Planning Board.
6. Projects shall not be segmented or phased to avoid compliance with these provisions.

G. Construction

1. Occupancy permits for any Conventional Unit or uses other than Dwelling Units in a project shall be issued proportionately in the required ratio as occupancy permits for the required Assisted Units are issued or payment of the cash contribution in lieu of the required Assisted Units is made for the entire project.
2. All documents necessary to ensure compliance with this by-law shall be subject to the review and approval by Town Counsel and shall be executed prior to and as a condition of the issuance of any Certificate of Occupancy.

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