
DRAFT HUDSON INCLUSIONARY HOUSING BY-LAW

Inclusionary zoning is a technique in which developers are required to provide a certain number of affordable dwelling units when they are creating market rate units. This draft is not a mandatory inclusionary housing by-law, but rather allows for a density bonus to be considered if affordable units are provided. A growing number of communities in Massachusetts have turned to this zoning tool as a way to increase the affordable housing stock.

I. Purpose and Intent.

The purpose of this by-law is to encourage the development of affordable housing in compliance with the MGL 40B Sections 20-23, and the Town of Hudson programs to promote a reasonable percentage of housing that is affordable to very-low, low and moderate income buyers. It is intended that the affordable housing units that result from this by-law be considered as Local Initiative Program (LIP) dwelling units in compliance with the requirements for the same as specified by the Division of Housing and Community Development and that said units count toward the Town's requirements under MGL 40B sections 20-23.

II. Definitions

Affordable Housing Unit. A dwelling unit that can be purchased at a cost that is no more than 30% of the homeowner(s) income, which is at or below 80% of the Town of Hudson's median income as reported by the U.S. Department of Housing and Urban Development, including units under MGL 40B sections 20 - 23 and the Commonwealth's Local Initiative Program (LIP).

Qualified affordable housing unit purchaser. An individual or family with a household income that does not exceed 80% of the median income, with adjustments for household size, as reported by the most recent information from the United States Department of Housing and Urban Development (HUD) and/or the Massachusetts Department of Housing and Community development (DHCD).

III. Applicability

1. **Division of Land.** This by-law shall apply to the division of land held in single ownership as of May 31, 2004 or anytime thereafter into six (6) or more lots, and shall require a special permit under Section 8.2 of the Zoning By-law. A special permit shall be required for land divisions under M.G.L. c. 40A section 9 as well as for "conventional" or "grid" divisions allowed by M.G.L. c.41 section 81-L and section 81-U, including those divisions of land that do not require subdivision approval.

2. Multiple Units. This by-law shall apply to the construction of six (6) or more dwelling units, whether on one or more contiguous parcels in existence as of May 31, 2004, and shall require a special permit under Section 8.2 of the Zoning By-law.
3. This by-law shall apply to all projects developed in accordance with the Retirement Community Overlay District, Section 5.8 of the Zoning By-law.
4. This by-law shall apply to all projects developed in accordance with the Mill Overlay District, Section ___ of the Zoning By-law.
5. This by-law shall apply to all projects developed in accordance with the Open Space Residential District, Section ___ of the Zoning By-law.
6. The Planning Board shall be the Special Permit Granting Authority (SPGA) for all special permits under this by-law.

IV. Density Bonus Option for Provision of Affordable Units

1. The SPGA may allow for a density bonus of up to 25% of the proposed units if the applicant for special permit approval complies, at a minimum, with the following requirements for affordable units:
 - (a) at least ten (10) percent of the lots in a division of land or units in a multiple unit development subject to this by-law shall be established as affordable housing units in any one or combination of methods provided for below. Fractions of a lot or dwelling unit shall be rounded up to the nearest whole number, such that a development proposing six (6) dwelling units shall require one affordable unit, a development proposing eleven (11) dwelling units shall require two affordable units and so on;
 - (b) the affordable unit(s) shall be constructed or rehabilitated on:
 - (i) the locus property, or
 - (ii) a locus different from the one subject to the special permit

The applicant may offer, and the SPGA may accept, any combination of the above requirements provided that in no event shall the total number of units or land area provided be less than the equivalent number or value of affordable units required by this by-law.

IV.Provisions Applicable to Affordable Housing Units On- or Off-Site

1. Siting of affordable units. All affordable units constructed or rehabilitated under this by-law shall be situated so as not to be in less desirable locations than market-rate units in the development and shall, on average, be no less accessible to public amenities, such as open space, as the market-rate units.

2. Minimum design and construction standards for affordable units. Affordable housing units within market rate developments shall be integrated with the rest of the development and shall be compatible in design, appearance, construction and quality of materials with other units.
3. Timing of construction or provision of affordable units or lots. The SPGA may impose conditions on the special permit requiring construction of affordable housing according to a specified time table, so that, affordable housing units shall be provided coincident to the development of market-rate units, but in no event shall the development of affordable units be delayed beyond the schedule noted below:

MARKET-RATE UNIT %	AFFORDABLE HOUSING UNIT %
Up to 30%	None required
30% plus 1 unit	At least 10%
Up to 50%	At least 30%
Up to 75%	At least 50%
75% plus 1 unit	At least 70%
up to 90%	100%

Any fractions of an affordable unit shall be rounded up to a whole unit.

V. Local Preference

The SPGA shall require the applicant to comply with local preference requirements, if any, as established by the Town.

VI. Marketing Plan for Affordable Units

Applicants under this by-law shall submit a marketing plan or other method approved by the SPGA, which describes how the affordable units will be marketed to potential homebuyers. This plan shall include a description of the lottery or other process to be used for selecting buyers. The plan shall be in conformance to DHCD rules and regulations.

VII. Provision of Affordable Housing Units Off-Site

Subject to the approval of the SPGA, an applicant subject to the by-law may develop, construct or otherwise provide affordable units equivalent to those required off-site. All requirements of this by-law that apply to on-site provision of affordable units, shall apply to provision of off-site affordable units. In addition, the location of the off-site units to be provided shall be approved by the SPGA as an integral element of the special permit review and approval process.

VIII. 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 for the household and to 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 Hudson _____ or to another authority as stipulated by them, that the annual household income level does not exceed the maximum established by the Commonwealth's Division of Housing and Community Development (DHCD), and as may be revised from time to time.

2. The maximum price of the affordable housing unit(s) created under this by-law is established by DHCD under the Local Initiative Program (LIP) guidelines in effect at the time the unit(s) is built.

IX. Preservation of Affordability; Restrictions on Resale

1. Each affordable unit created in accordance with this by-law shall have the following limitations governing its resale. 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 deed restriction, acceptable to DHCD, on the property, recorded at the Middlesex County Registry of Deeds or the Land Court, and shall be in force for a period of ninety-nine (99) years.
2. Affordable Housing Unit(s) Resale Price: Sales beyond the initial sale to a qualified purchaser shall not exceed the maximum sales price as determined by the DHCD for affordability within the Town of Hudson at the time of resale.
3. Right of first refusal of purchase: The purchaser of an affordable housing unit developed as a result of this by-law shall agree to execute a deed rider prepared by the Town, granting, among other things, the Town of Hudson's right of first refusal for a period not less than one hundred and eighty (180) days to purchase the property or assignment thereof, in the event that, despite diligent efforts to sell the property, a subsequent qualified purchaser cannot be located.
4. The SPGA shall require, as a condition for special permit approval under this by-law, that the deeds to the affordable housing unit contain a restriction requiring that any subsequent renting or leasing of said affordable housing unit shall not exceed the maximum rental price as determined by the DHCD for affordability within the Town of Hudson.
5. The SPGA shall require, as a condition for special permit approval under this by-law, that the applicant comply with the mandatory set-asides and accompanying deed restrictions on affordability. The Building Inspector shall not issue any building permit for any unit(s) until the special permit and deed restriction are recorded at the Middlesex County Registry of Deeds or the Land Court.