

## Chapter 200. Zoning

### Article 9. Special Regulations

#### §9.9 Inclusionary Housing

A. Purpose and Intent.

The purpose of this inclusionary housing section is to ensure that residential development meets the housing needs of the community for residents of all incomes by increasing the supply of housing stock permanently available; to maintain an economically integrated community by promoting a mix and distribution of housing opportunities; to develop and maintain a reasonable proportion of the Town's housing stock as affordable housing units for inclusion on the Subsidized Housing Inventory (SHI) by the Executive Office of Housing and Livable Communities (EOHLC) or successor agency; and ensure that such affordable housing is made available to all eligible households on a nondiscriminatory basis in accordance with the federal Fair Housing Act of 1968<sup>2</sup> and MGL c. 151B, as amended, and any regulations promulgated under federal and state law.

B. Applicability

The provisions of this section shall apply to all projects, whether new construction, conversion, adaptive reuse or expansion of an existing structure involving the creation of ten (10) or more residential dwelling units.

A development shall not be phased or segmented in a manner to avoid compliance with this section. New construction, conversion, adaptive reuse or expansion of an existing structure or any division of land that would cumulatively result in an increase of ten (10) or more residential lots or dwelling units above the number existing on a parcel of land or contiguous parcels in common ownership twenty-four(24) months prior to the application shall be subject to this Section.

C. Exemptions

- (1) This section shall not apply to the rehabilitation of any building or structure wholly or substantially destroyed or damaged by fire or other casualty, provided that such rehabilitation or repair shall not increase the number of dwelling units on the lot as existed prior to the damage or destruction thereof, except in conformance with this section.
- (2) This section shall not apply to the proposed rehabilitation or replacement of any housing units in existence at the time of adoption of this section and shall only apply to net new units that increase the density of such existing buildings or structures.
- (3) This section shall not apply to projects constructed in the Randolph Community Multi-Family Overlay District (RCMOD).

D. Requirements

- (1) No Special Permit for a use requiring one and no Building Permit for a use permitted

as of right shall be issued for a development subject to this section unless the Applicant provides the percentage of the total dwelling units in the development as affordable housing as described herein and otherwise consistent with this Section.

- (2) Nothing in this section shall preclude a developer from providing additional affordable units, or greater affordability, or both, than the minimum requirements. For purposes of this Section, any calculation of required affordable housing units that results in the fractional or decimal equivalent of one-half or above shall be increased to the next highest number.
- (3) AHU's shall be serve eligible households whose annual incomes do not exceed 80% of the median income of households in the Boston-Cambridge-Quincy MSA/HMFA adjusted for family size and whose assets do not exceed those allowed by EOHLC for the unit to be eligible for inclusion o the SHI.

Total Project Size	Affordable Units	Rental Price	Ownership Price
1-9 units	0	N/A	N/A
10-19 units	1	80% of AMI	80% of AMI
20-39 units	12.5%	80% of AMI	80% of AMI
40+ units	15%	10% at 80% AMI AND 5% at 60% AMI	80% of AMI

Unit Type	Number of Units	Affordable Units	Income Restriction
Independent Living (IL)	1-9	12.5%	80% of AMI or less
	10+	15%	80% of AMI or less
Assisted Living (AL)*	1-9	12.5%	80% of AMI or less
	10+	15%	80% of AMI or less
Skilled Nursing or Dementia Care	N/A	EXEMPT	N/A

- (4) For projects providing more than one AHU, at least 10% of the total AHU's shall be handicapped accessible. If the project includes both rental and ownership units, the handicapped accessible units shall be incorporated proportionally among unit types.

**E. Housing Contribution Payment In Lieu of On-site Units**

The SPGA may grant approval to provide affordable housing through a monetary contribution to the Randolph Affordable Housing Trust Fund in lieu of providing

affordable units on-site. A combination of construction of AHUs and payment-in-lieu-of units may be combined to meet a single project's requirement if approved by the SPGA.

- (1) The fee in lieu for each unit approved shall amount to two (2) times the HUD area median income limit for a household of four (4) in the metropolitan area that includes Randolph. For example, if the HUD income limit for a household of four (4) is \$60,000, the fee in lieu for each affordable unit shall be \$120,000.
- (2) The total amount due shall be paid upon the issuance of the first building permit or, in the case of a subdivision, before the release of any lots unless the SPGA approves an alternative payment schedule.
- (3) ILF and ALF are not eligible for in-lieu payment options.
- (4) Payments made to the Randolph Affordable Housing Trust Fund shall be used exclusively for the purpose of promoting the Town's affordable housing goals.
- (5) If the Randolph Affordable Housing Trust Fund has been dissolved or is no longer in existence as of the time any application is submitted, then cash payments received under the provisions of this section shall be paid into.....

F. Affordable Housing Restrictions

AHU's are subject to an Affordable Housing Restriction that contains limitations on use, occupancy, resale and rents and provides for periodic monitoring to verify compliance with and enforce said restrictions.

- (1) Regulatory Agreement and Deed Covenants  
Affordability restrictions shall be contained in a the EOHLIC Local Initiative Program (LIP) Regulatory Agreement and, in the case of ownership units, the Universal Deed Rider which shall, at a minimum, identify and describe the AHUs in the development, an inventory of the units, monitoring of eligibility and terms of their sale or lease.
  - (a) The AHR shall run with the land and be in force for a period of at least thirty (30) years and be enforceable under the provisions of MGL Chapter 184, Section 26 or Sections 31-32.
  - (b) The AHR shall provide that initial sales and rental of AHU's and subsequent resales and re-rentals shall comply with federal, state and local fair housing laws, regulations and policies.
  - (c) The AHR shall provide that, in the event any affordable rental unit is converted to a condominium unit, the condominium unit shall be restricted in the manner provided for by this Section to ensure that it remains affordable to households in the same income range as prior to condominium conversion.
- (2) Housing Marketing & Selection Plan  
AHU's shall be made available for purchase or rent to eligible low-to-moderate income households under an affirmative market plan that complies with federal and state fair housing laws. No occupancy permit shall be issued unless the XXX has

determined that the Applicant's affirmative marketing plan complies with this requirement.

- (a) The Housing Marketing and Selection Plan shall make provision for payment by the Applicant of reasonable costs to the Monitoring Agent to develop, advertise, and maintain the list of Eligible Households and to monitor and enforce compliance with affordability requirements as set forth in this Section.
- (b) Costs for establishing affirmative marketing shall be the responsibility of the Applicant.

(3) Monitoring Agent

A Monitoring Agent shall be designated to ensure:

- (a) Sale and/or rental prices of AHU's are properly computed;
- (b) Income eligibility of households applying for an AHU are properly and reliably determined;
- (c) The housing marketing and selection plan, including the location and unit-type mix of the AHU's relative to all units with the project, has been submitted to and received approval from (the Planning Department) and otherwise confirms to all requirements and is properly administered;
- (d) Sales and rentals are made to Eligible Households chosen in accordance with the housing marketing and selection plan with appropriate unit size for each household being properly determined; and
- (e) An AHR meeting the requirements of this Section are recorded with the proper registry of deeds of district registry of Land Court.

G. Preservation of Affordability

Each homeownership AHU created in accordance with this Section shall have limitations governing its resale through the use of a regulatory agreement. The purpose of these limitations is to preserve the long-term affordability of the unit and to ensure its continued availability for income eligible households. The resale controls shall be established through a restriction on the property and shall be in force for 30 years.

- (1) Right of first refusal to purchase. The purchaser of an AHU developed as a result of this Section shall agree to execute a condition in its deed restriction to be approved by the Town and EOHLC, granting, among other things, the municipality's and EOHLC's right of first refusal to purchase the property in the event that a subsequent qualified purchaser cannot be located.
- (2) Resale price. Sales beyond the initial sale to a qualified affordable income purchaser shall comply with the requirements of the EOHLC LIP.

(3)

H. Standards for Construction

- (1) AHUs shall be comparable to and indistinguishable from market-rate units in exterior building materials and finishes, windows, and other improvements related to the energy efficiency of the units.

- (2) AHUs shall be dispersed and sited throughout a development so as not to be in less desirable locations than the development's market-rate units.
  - (3) Each AHU shall comply with EOHLC's LIP guidelines for minimum floor areas for units not created under an MGL c. 40B comprehensive permit.
  - (4) AHUs shall serve eligible households of diverse sizes based on the number of bedrooms in each affordable unit. The number of persons occupying the affordable units shall be consistent with the state sanitary code and the applicable state and federal guidelines.
  - (5) The rental or ownership of affordable units shall mirror the project as a whole. For example, affordable units should be sold, not rented, where a majority of units in a project will be offered for sale.
  - (6) Phasing  
If the SPGA has permitted a project to be developed in phases, the proportion of AHU's constructed shall be consistent across all phases. AHUs shall not be the last units to be constructed in any development and/or redevelopment subject to this Section.
- I. Standards for Occupancy
- (1) An Affirmative Fair Market Housing Plan, approved, signed and recorded Regulatory Agreement and/or deed restriction shall be in place prior to the issuance of a Certificate of Occupancy.
  - (2) The lottery for AHUs shall take place prior to issuance of a Certificate of Occupancy.
- J. Submission Requirements and Procedures
- (1) Application, review and decision procedures shall be in accordance with Town of Randolph regulations.
  - (2) Any project that requires the provision of AHUs under this Section must submit a narrative outlining the method of meeting the affordable housing requirements of this Section.
- K. Administration and Enforcement
- (1) Annually, the developer shall submit to the Planning Department and EOHLC, a proposed schedule of monthly rents and utilities for all rental AHUs in the project. Such schedule shall be subject to the approval of the Town and EOHLC for compliance with the requirements of the Regulatory Agreement.
  - (2) For ownership units, the owner of an AHU shall certify in writing annually to the Planning Department and EOHLC that he/she continues to occupy the unit as a primary residence, the unit has not been refinanced and that it has been maintained in a manner consistent with the Regulatory Agreement and Deed Rider.

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