

23.0 Affordable Housing Incentive Zoning

23.1 Purpose and Intent: The purpose of this bylaw is to:

- a) Encourage developers to include affordable housing in residential and mixed use development and redevelopment.
- b) Encourage residential infill development within the village zoning districts that is consistent with the character of the surrounding neighborhood.
- c) Encourage affordable housing in close proximity to jobs, schools, shopping, services, and transit, and in areas served by the water and sewer districts.
- d) Assist the Town in creating units eligible for the Commonwealth's Ch. 40B Subsidized Housing Inventory (SHI).
- e) Address the need for affordable housing documented in the Shelburne Housing Plan.

23.2 Applicability: In the Village Commercial (VC) Zoning District the Zoning Board of Appeals may issue a Special Permit, in accordance with Section 6.0 Special Permits, and in the Village Residential-1 (VR-1) Zoning District, the Planning Board may issue a Special Permit, in accordance with Section 6.0 Special Permits, for one or more of the following in exchange for the provision of affordable housing units in a development:

- a) In the Village Residential-1 (VR-1) district, the minimum lot area may be reduced to 5,000 square feet, and the maximum lot coverage may be increased to 60%. One single-family or two-family home may be located on a lot.
- b) In the Village Commercial (VC) district, multi-family development within a new structure or a non-historic structure may include up to eight (8) dwelling units.
- c) In the Village Commercial (VC) and Village Residential-1 (VR-1) districts, single-family homes may have a minimum side yard setback of zero (0) feet on one side, to allow for a zero-lot line development. Zero-lot line developments shall meet the following requirements:
 - i. All lots proposed for zero-lot line development shall be under the control of the same property owner at the time the zero lot line development is proposed.
 - ii. The two abutting lots shall each have a minimum area of 4,000 square feet and a minimum frontage of 40 feet and shall meet all other setback and dimensional requirements of the zoning district.
 - iii. Accessory Apartments shall not be permitted in a zero-lot line development.

23.3 Requirements:

- a) A minimum of 25% affordable units must be provided in the development. When the requirement results in a fraction of a dwelling unit, the number of total affordable housing units shall 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, provided that the overall percent of affordable units in the development is at least 25%. For example, if only one dwelling unit is proposed under this bylaw, Section 0.0 Affordable Housing Incentive Zoning, that unit shall be affordable and meet the requirements of this bylaw.
- b) The affordable housing units created through this Bylaw shall qualify as Local Action Units through the Department of Housing and Community Development's (DHCD) Local Initiative Program, or through other affordable housing programs that result in units that are eligible for listing on the Ch. 40B Subsidized Housing Inventory. The Applicant shall be responsible for preparing and complying with any documentation that may be required by DHCD to qualify affordable units for listing on the Chapter 40B Subsidized Housing Inventory.
- c) All affordable units constructed or rehabilitated under this Bylaw shall be situated within the development so as to be integrated with market-rate units in the development and shall, on average, be no less accessible to public amenities as the market-rate units. The Special Permit Granting Authority in its sole discretion makes the final determination of the suitability of the siting of the affordable units.
- d) Projects containing affordable units shall meet the minimum design and construction standards set forth by the Massachusetts Department of Housing and Community Development Local Initiative Program (LIP) or other applicable affordable housing program that result in affordable units eligible for inclusion on the Ch. 40B Subsidized Housing Inventory. In addition, all housing units (market rate and affordable units) created through this bylaw shall adhere to the design guidelines in accordance with Section 24.0 Village Design Guidelines for Residential Structures.
- e) Development proposing a mix of affordable and market rate units shall submit a phasing plan as part of the Special Permit application that provides for the timely and integrated development of the affordable housing units as the development project is built out. The phasing plan shall provide for the development of the affordable housing units concurrently with the market rate units in order to ensure a minimum of 25% affordable units are provided. Building permits shall be issued for the development project based upon the phasing plan. The phasing plan may be adjusted if approved by the Special Permit Granting Authority in order to account for the different financing and funding environment, economies of scale, and infrastructure needs applicable to development of the market rate and the affordable units.

23.4 Submission Requirements: The development of any project under this bylaw (Section 23.0 Affordable Housing Incentive Zoning) shall require the grant of a Special Permit from the Planning Board for projects proposed in Village Residential-1 (VR-1) District, and from the Zoning Board of Appeals for projects proposed in the Village Commercial (VC) District. The application procedure for the Special Permit shall be as defined in Section 6.0 Special Permits of the Town's Zoning Bylaw. In addition to the

submission requirements set forth in Section 6.0 Special Permits, the following is required. The Special Permit Granting Authority may waive certain submission requirements if it determines the simplicity of the application warrants it:

- a) A general description of the development, including whether the development will contain rental units or individually owned units, and whether the development contains single-family, two-family, and/or multi-family structures;
- b) The total number of market rate units and affordable units in the development;
- c) The number of bedrooms and bathrooms in each market rate unit and each affordable unit;
- d) The approximate square footage of each market rate unit and each affordable unit;
- e) The location of each market rate unit and affordable unit within the structure or residential development;
- f) The proposed pricing for each market rate unit and each affordable housing unit and proposed condominium or homeowner's association fees if applicable. The Applicant shall demonstrate that the proposed purchase prices or rents of affordable units adhere to the current low- or moderate-income limits as determined by the U.S. Department of Housing and Urban Development (HUD) applicable to the Town of Shelburne and shall satisfy the affordability requirements of the Department of Housing and Community Development's (DHCD) Local Initiative Program, or other affordable housing program that result in units eligible for listing on DHCD's Ch. 40B Subsidized Housing Inventory;
- g) The phasing and construction schedule for each market rate unit and each affordable unit, if applicable;
- h) Documentation and conceptual plans regarding the exterior appearances of structures, including sample elevations, and a description of how the development adheres to the design guidelines for the zoning district;
- i) A draft Affirmative Fair Marketing and Resident Selection Plan that complies with DHCD's regulations and guidelines. The Applicant shall be responsible for resident selection, including but not limited to drafting the resident selection plan, marketing, administering the initial lottery process, and determining the qualification of potential buyers and/or tenants. The Applicant shall be responsible for paying for all of the costs of affirmative fair marketing and resident selection. The Applicant may contract for such services provided that any such contractor shall be experienced and qualified under the standards set forth by DHCD;
- j) The draft Affirmative Fair Marketing and Resident Selection Plan shall describe how the Applicant will accommodate local preference requirements, if any, established by the Special Permit Granting Authority;

- k) Draft regulatory agreement for submission to DHCD;
- l) Draft affordable housing deed rider to be recorded with the Registry of Deeds.

23.5 Preservation of Affordability:

- a) Any affordable unit created shall be subject to an affordable housing restriction ensuring that the affordable housing units developed under this bylaw will be available for purchase or rent by eligible households in perpetuity or for the maximum period allowed by law, and must be eligible for listing on the State's Chapter 40B Subsidized Housing Inventory. The Applicant shall enter into a regulatory agreement with the Town of Shelburne Selectboard and the Massachusetts Department of Housing and Community Development (DHCD). Applicants are encouraged to use the "model" regulatory agreement provided by DHCD. Applicants shall be responsible for preparing a complete regulatory agreement for signature by the Town and DHCD, obtaining the necessary signatures and recording a fully executed agreement at the Registry of Deeds prior to the issuance of any building permits;
- b) Homeownership units must be protected by a deed rider that "lock in" an affordable housing purchase price upon resale. Applicants are encouraged to use DHCD's "model" affordable housing deed rider. This document must be submitted and approved by the Special Permit Granting Authority prior to the issuance of a certificate of occupancy and must also be recorded with the Registry of Deeds at the time of transfer of ownership;
- c) The final Affirmative Fair Marketing and Resident Selection Plan as approved by DHCD shall be submitted to the Special Permit Granting Authority prior to the issuance of any building permits;
- d) The Applicant shall be responsible for preparing and complying with any documentation that may be required by DHCD to qualify affordable units for listing on the Chapter 40B Subsidized Housing Inventory.

Revise Section 2: Definitions:

2.11 Dwelling, Multiple-Family: A principal building designed ~~for~~ or converted for occupancy ~~for~~ up to four (4) families living in separate dwelling units separated by vertical walls or horizontal floors. Historic Industrial or Commercial Structures converted ~~to~~ Multiple-Family Residential Use may have more than ~~four~~ dwelling units. New or non-historic structures that meet the requirements of Section 23.0 Affordable Housing Incentive Zoning may include up to eight (8) dwelling units. Also see Section 11.0 Parking Requirements.

Add to Section 2: Definitions:

Affordable Housing Unit shall mean a dwelling unit that is affordable to and occupied by an income-eligible household and which meets the requirements of the Local Initiative Program or other applicable affordable housing program for inclusion on the Chapter 40B Subsidized Housing Inventory.

Affordable Housing Income Eligible Household shall mean a household with income at or below 80% of the area median income, adjusted for household size, for the Franklin County Metropolitan Fair Market Rent/Income Limits Area that includes the Town of Shelburne, as determined annually by the United States Department of Housing and Urban Development (HUD).

Affordable Housing Zero-Lot Line Development shall mean a development where house lots have a minimum side yard setback of zero feet on one side (the "zero-lot line"), while the opposite side meets the standard side yard setback of the district. Affordable Housing Zero-Lot Line Developments shall meet the requirements of Section 23.0 Affordable Housing Incentive Zoning.