

Inclusionary Zoning

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

Issue Overview Inclusionary zoning requires or encourages developers to include affordable dwelling units within new developments of market rate homes. Some municipalities call it "incentive zoning" - when provision of affordable units is voluntary. The affordable units are typically located on site, but some municipalities also allow off-site development under certain circumstances. Often, payments may be made to a trust fund in lieu of building housing. Housing designated as "affordable" must be restricted by deed or covenant, usually for a period of 30 or more years, to residents with low or moderate incomes. The deed restrictions also limit sales prices and rents as the units are vacated, sold or leased to new tenants. Municipalities adopt inclusionary zoning as a mechanism to increase affordable housing, scattered across sites, in proportion to new market-rate housing. Inclusionary programs are based on an "internal subsidy": the proceeds from the market-rate units support the affordable units.

The "mandatory" provisions for including affordable housing, in some municipalities, apply to all development (by right and special permit, as well as "Approval Not Required" under the Subdivision Control Act) or, in other municipalities, inclusion of affordable housing is a condition for obtaining a special permit for cluster, multifamily development, etc. Optional provisions give the developers choice of whether to designate affordable units, usually in exchange for density bonuses. The option can apply broadly as a density bonus granted for any residential development or as an incentive included in special regulations such as cluster or active adult village zoning.

Massachusetts General Law Chapter 40A, Section 9 "Special Permits" authorizes the use of special permits to grant incentives for development of low- and moderate-income housing: "Zoning ordinances or by-laws may also provide for special permits authorizing increases in the permissible density of population or intensity of a particular use in a proposed development; provided that the petitioner or applicant shall, as a condition for the grant of said permit, provide ... housing for persons of low or moderate income,"

Research Coding Researcher searched the zoning document for the terms "affordable," "inclusionary" and "income." Some of the relevant provisions appeared in separate sections titled "affordable housing" or "inclusionary zoning." Often, incentives to include affordable units appeared towards the end of a section on cluster zoning, planned unit development, mixed use overlays, or active adult (55+) villages. The provisions were also found in sections addressing multi-family housing.

Researchers did not include provisions for entirely affordable, subsidized housing development by public or non-profit corporations. Also not included were provisions under "rate of development" headings that exempt affordable units from project phasing and growth caps.

What year was the inclusionary/incentive provision adopted?

Issue Overview

Research Coding Researcher asked municipal planners, building inspectors, and planning board clerks this question. Some answers were also obtained through the surveys. The relevant dates are sometimes provided in the zoning bylaw/ordinances. Ordinance.com usually lists the dates of amendments within the bylaw/ordinance. Some bylaws and ordinances include a list of all amendments with dates in an appendix.

Have affordable units been developed through this zoning mechanism?

Issue Overview

Research Coding Municipal staff people, generally in the town's Planning Department, were asked in phone interviews, by email and in a mail survey whether any affordable units had been built using this mechanism. In a few cases, the municipal staff person may have referred to affordable units developed through other mechanisms such as 40B approval. Some of the relevant provisions were too new to have yielded units. The numbers reported have not been independently verified.

Abington

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

No Confirmed by Dan Crane, Abington Town Planner, in phone conversation on 6/29/04.

What year was the inclusionary/incentive provision adopted?

Have affordable units been developed through this zoning mechanism?

Acton

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

Yes From the Code of The Town of Acton
MIDDLESEX COUNTY, MASSACHUSETTS
ZONING BY-LAW
Amended through January 2001

SECTION 1 AUTHORITY, PURPOSE, DEFINITIONS AND APPLICABILITY
1.3 Definitions

1.3.2 AFFORDABLE : The term AFFORDABLE shall refer to housing which is restricted for sale, lease or rental

- (1) to households within specific income ranges and
- (2) at specific prices in accordance with the provisions of Section 4.4 of this Bylaw.

1.3.13 LOW-INCOME : The term LOW-INCOME shall refer to households having a total household or FAMILY income less than or equal to eighty (80) percent of the median income for the Boston Primary Metropolitan Statistical Area, as set forth in regulations promulgated from time to time by the U.S. Department of Housing and Urban Development pursuant to 42 USC 1437 et seq., and calculated pursuant to said regulations; or a household in a similar income group which is eligible for housing assistance under a state or federal subsidy program.

1.3.14 MODERATE-INCOME : The term MODERATE-INCOME shall refer to households having a total household or FAMILY income less than or equal to one hundred twenty (120) per cent, but more than eighty (80) per cent of the median income for the Boston Primary Metropolitan Statistical Area, as set forth in regulations promulgated from time to time by the U.S. Department of Housing and Urban Development pursuant to 42 USC 1437 et seq., and calculated pursuant to said regulations; or a household in a similar income group which is eligible for housing assistance under a state or federal subsidy program.

SECTION 4. OVERLAY DISTRICTS

4.4 AFFORDABLE Housing Incentives and Overlay District

4.4.1 Purpose - The purpose of this Section is to enhance the public welfare by increasing the production of DWELLING UNITS AFFORDABLE to persons and households of LOW-INCOME and MODERATE-INCOME. In order to encourage utilization of the Town's remaining developable land in a manner consistent with local housing policies and needs, the Town encourages new housing developments to contain a proportion of the DWELLING UNITS AFFORDABLE to persons or households of LOW-INCOME and MODERATE-INCOME. Accordingly, the provisions of this Section are designed:

- (1) to increase the supply of housing in the Town of Acton that is available to and AFFORDABLE by LOW-INCOME and MODERATE-INCOME households;
- (2) to encourage a greater diversity of housing accommodations to meet the diverse needs of FAMILIES and other Town residents;
- and
- (3) to promote a reasonable mix and distribution of housing opportunities in residential neighborhoods throughout the Town.

4.4.2 Applicability

4.4.2.1 The provisions of this Section 4.4 may be utilized by any new development located within the AFFORDABLE Housing Overlay District, subject to the requirements and standards set forth in this Section 4.4.

4.4.2.2 The AFFORDABLE Housing Overlay District is defined and bounded as shown on the "Affordable Housing Overlay District Map of the Town of Acton". The AFFORDABLE Housing Overlay District shall consist of two Sub-Districts: a) Sub-District A - In the Sub-District A, the Planning Board, when issuing a Special Permit for an Open Space Development pursuant to Section 4.2, may authorize a Minor AFFORDABLE Housing Development as provided in Section 4.4.3. b) Sub-District B - In the Sub-District B, the Planning Board may authorize a Minor AFFORDABLE Housing Development as provided in Section 4.4.3, or alternatively, the Planning Board may allow by Special Permit a Major AFFORDABLE Housing Development as provided in Section 4.4.4.

4.4.2.3 Said AFFORDABLE Housing Overlay District is superimposed over all Districts established by this Bylaw and the regulations related to the AFFORDABLE Housing Overlay District are in addition to all other regulations set forth in this Bylaw. Where the requirements and standards within the AFFORDABLE Housing Overlay District, as set forth in this Section 4.4, differ from or conflict with the requirements and standards of the remainder of the Bylaw, the requirements and standards established for the AFFORDABLE Housing Overlay District shall prevail, except for standards established in the Groundwater Protection and Flood Plain Districts.

4.4.2.4 The AFFORDABLE Housing Overlay District includes parcels of land which are not located in a Residential District and where residential USES are not otherwise allowed. For the purpose of utilizing the provisions of this Section 4.4 to generate AFFORDABLE housing, but under no other circumstances, residential USES shall be permitted on such parcels. In order to establish a reference point as a base line for any dimensional provisions set forth in this Section 4.4, the dimensional standards of the Residence 4 (R-4) District shall be assumed for such parcels.

4.4.3 Minor AFFORDABLE Housing Developments - A Minor AFFORDABLE Housing Development shall be regarded as an additional development option for land located in either Sub-District of the AFFORDABLE Housing Overlay District. Any Minor AFFORDABLE Housing Development shall be an Open Space Development following the provisions of Section 4.2 of this Bylaw, except as modified hereunder. The Planning Board, in issuing an Open Space Development Special Permit under Section 4.2, may authorize a Minor AFFORDABLE Housing Development, subject to the following provisions and requirements:

4.4.3.1 Number of DWELLING UNITS to be provided - The Planning Board may allow any new Open Space Development to have a greater number of DWELLING UNITS than would otherwise be allowed under the provisions of Section 4.2 and other provisions of this Bylaw, up to a maximum of twenty five percent (25%) more. In order to receive such an increase or density bonus, a portion of the DWELLING UNITS provided within an Open Space Development shall be AFFORDABLE, in accordance with one of the following methods or a combination thereof:

[insert method calculation table]

EXAMPLE Nothing herein shall be construed to prevent the voluntary inclusion of additional AFFORDABLE DWELLING UNITS at the developer's choice without exceeding the maximum density increase of 25%.

4.4.3.2 Adjustments of dimensional requirements - The Planning Board may allow a reduction in the Dimensional Requirements found in Section 4.2.3.3 for LOTS and STRUCTURES. The percentage reduction shall not exceed the percentage increase in the number of DWELLING UNITS permitted under Section 4.4.3.1 above.

4.4.3.3 Two-FAMILY STRUCTURES - The Planning Board may allow the construction of two-FAMILY STRUCTURES which are designed to be consistent in character with the single FAMILY STRUCTURES in the same development. Such two-FAMILY STRUCTURES may be allowed at a rate of one two-FAMILY STRUCTURE in place of two single FAMILY STRUCTURES where the following conditions are met: a) at least fifteen percent (15%) of the total number of DWELLING UNITS are AFFORDABLE under Options 1,2,3 or 5 of Section 4.4.3.1 above; b) the two-FAMILY STRUCTURES have no more than one (1) doorway facing the front yard area and shall, in terms of exterior appearance be compatible in design, and to the extent practicable, be indistinguishable from the single FAMILY STRUCTURES in the same development; c) not more than fifty percent (50%) of the total number of STRUCTURES are two-FAMILY STRUCTURES, and d) the number of AFFORDABLE DWELLING UNITS located in two-FAMILY STRUCTURES does not exceed two (2), or fifty percent (50%) of the total number of AFFORDABLE DWELLING UNITS, whichever results in the greater number of AFFORDABLE DWELLING UNITS to be located in two-FAMILY STRUCTURES. Where two-FAMILY STRUCTURES are part of the development plan, the Planning Board may permit the side yard requirement to be eliminated so as to allow the separate sale of individual DWELLING UNITS within a two-FAMILY STRUCTURE along with their respective accompanying yard area. Where two-FAMILY STRUCTURES are allowed, the combined LOT area upon which the DWELLING UNITS of the two-FAMILY STRUCTURE are located only needs to comply with the LOT area requirement as applicable to a LOT with a single FAMILY STRUCTURE located within the same Open Space Development. The Planning Board may establish design guidelines for two-FAMILY STRUCTURES, require submission of architectural floor plans and side elevation plans for all proposed two-FAMILY STRUCTURES, and impose additional conditions affecting the design and location of two-FAMILY STRUCTURES. All privileges and exemptions provided to single FAMILY residential USES or BUILDINGS under this Bylaw shall also apply to two-FAMILY STRUCTURES permitted hereunder. The inclusion of two-FAMILY STRUCTURES shall not result in an increase in the number of DWELLING UNITS above the 25% density bonus permitted under Section 4.4.3.1. 4.4.3.4 A Minor AFFORDABLE Housing Development shall be subject to the provisions and requirements of Sections 4.4.5 through 4.4.9.

4.4.4 Major AFFORDABLE Housing Development - A Major AFFORDABLE Housing Development shall be regarded as an additional development option for land located in Sub-District B of the AFFORDABLE Housing Overlay District. A Major AFFORDABLE Housing Development may be allowed by Special Permit from the Planning Board. Such Major AFFORDABLE Housing Development shall be governed by the following provisions:

4.4.4.1 Affordability Provisions - A Major AFFORDABLE Housing Development must meet one of the following conditions:

- a) a minimum of 40% of the total number of DWELLING UNITS within the Major AFFORDABLE Housing Development shall be sold, leased or rented to MODERATE-INCOME households in accordance with Sections 4.4.6;
- b) a minimum of 30% of the total number of DWELLING UNITS within the Major AFFORDABLE Housing Development shall be sold to the Acton Housing Authority in accordance with Section 4.4.6, and/or
- c) be built on land under an arrangement, whereby title to the property underlying the prospective AFFORDABLE DWELLING

UNITS is donated to the Town of Acton or its designee and, in exchange, the Town of Acton or its designee will grant qualified purchasers a 99-year ground lease to such underlying property. Such ground lease shall contain provisions which limit the sale and occupancy of the affected AFFORDABLE DWELLING UNITS to LOW-INCOME or MODERATE-INCOME households as defined in this Bylaw, or

d) a minimum of 20% of the total number of DWELLING UNITS within the Major AFFORDABLE Housing Development shall be donated to the Acton Housing Authority in accordance with Section 4.4.6.

The Planning Board may approve a proportionate combination of the above conditions. For instance, if 20% of the DWELLING UNITS are AFFORDABLE under condition a., then half of the affordability requirement is satisfied. Consequently, to meet the full affordability requirement, an additional 15% of the DWELLING UNITS would have to be AFFORDABLE under condition b. (half of 30%), or an additional 10% under condition c. (half of 20%), or additional DWELLING UNITS would have to be AFFORDABLE under a proportionate combination of conditions b. and c. Results of all percentages shall be rounded up to the next whole number to determine the number of AFFORDABLE DWELLING UNITS. 4.4.4.2 Dimensional Provisions - A Major AFFORDABLE Housing Development, shall be subject to the following dimensional standards:

- a) Minimum TRACT OF LAND area: 80,000 square feet.
- b) Minimum TRACT OF LAND FRONTAGE: Fifty (50) feet.
- c) Maximum density: Five (5) DWELLING UNITS per acre, based on the total development site including Common Land.
- d) Minimum TRACT OF LAND width: Fifty (50) feet.
- e) Maximum BUILDING height: Thirty six (36) feet.
- f) Maximum number of DWELLING UNITS per BUILDING: Fifteen (15), however within an entire Major AFFORDABLE Housing Development the average number of DWELLING UNITS per BUILDING shall not exceed eight (8).
- g) Minimum separation of BUILDINGS: Twenty (20) feet;
- h) Minimum area to be set aside as Common Land pursuant to the provisions for Common Land in Section 4.2: Thirty percent (30%) of the total development site.
- i) Minimum perimeter buffer: Fifty (50) feet between any LOT line to abutting properties and any BUILDING within the development. Such buffer shall be landscaped or remain in its natural vegetation.

4.4.4.3 Design Provision - Each DWELLING UNIT in a Major AFFORDABLE Housing Development shall have at least one separate ground floor entrance/exit, unless the Planning Board permits otherwise as part of its Special Permit. In addition, each STRUCTURE shall be compatible with the architectural style and scale of the neighborhood within which it is proposed. The Planning Board may establish design guidelines for Major AFFORDABLE Housing Developments. In granting a Special Permit, the Planning Board may impose conditions regarding dimensional controls and bulk of BUILDINGS to enhance the architectural compatibility with the surrounding neighborhood.

4.4.4.4 Other Provisions - The Planning Board, in granting a Special Permit for a Major AFFORDABLE Housing Development, may impose reasonable conditions to protect the environment, and the health, safety and welfare of the neighborhood, of residents in the proposed development, and of the general public. Such conditions may include, but shall not necessarily be limited to, requirements for the tertiary treatment of wastewater effluent, the location of wastewater effluent disposal, and necessary limitations on the total number of DWELLING UNITS to prevent negative impacts on the groundwater and other existing or potential public water resources.

4.4.4.5 A Major AFFORDABLE Housing Development shall be subject to the provisions and requirements of Sections 4.4.5 through 4.4.9.

4.4.5 Development Standards for Major and Minor AFFORDABLE Housing Developments.

4.4.5.1 Location of AFFORDABLE DWELLING UNITS - AFFORDABLE DWELLING UNITS shall be dispersed throughout the development to insure a true mix of market-rate and AFFORDABLE housing.

4.4.5.2 Comparability - AFFORDABLE DWELLING UNITS shall in terms of exterior appearance be compatible in design with, and to the extent possible indistinguishable from, market-rate DWELLING UNITS in the same development. All internal design features shall be substantially the same as for market-rate DWELLING UNITS.

4.4.5.3 DWELLING UNIT size - Except as otherwise provided by the Planning Board, AFFORDABLE DWELLING UNITS shall contain two or more bedrooms and shall be suitable in type and design for FAMILY occupancy.

4.4.5.4 Rights and privileges - The owners or renters of AFFORDABLE DWELLING UNITS shall have all rights, privileges and responsibilities given to owners or renters of market rate DWELLING UNITS, including access to all amenities within the development.

4.4.5.5 DWELLING UNITS for Handicapped Persons - The Planning Board may require that some of the AFFORDABLE DWELLING UNITS be constructed so as to be suited for access and occupancy by a handicapped person or persons.

4.4.6 Affordability Requirements for Major and Minor AFFORDABLE Housing Developments.

4.4.6.1 Long term affordability - AFFORDABLE DWELLING UNITS shall be restricted to LOW-INCOME or MODERATE-INCOME use for the maximum period permitted by law, in one of the following ways: a) Donation of DWELLING UNITS to the Acton Housing Authority - DWELLING UNITS are donated to the Acton Housing Authority (A.H.A.), subject to the acceptance of the A.H.A. b) Sale of DWELLING UNITS to the Acton Housing Authority - DWELLING UNITS set aside for sale to the Acton Housing Authority (A.H.A.) shall be offered at prices which do not exceed the lesser of (i) the general development costs of the particular DWELLING UNITS, or

(ii) the current acquisition cost limits for the particular DWELLING UNITS under applicable state or federal financing programs. If the A.H.A. is unable to purchase the set-aside DWELLING UNIT(S) at the time of completion, the developer shall grant to the A.H.A. an exclusive right to purchase such DWELLING UNIT(S) within said cost limits, and shall lease or rent the DWELLING UNIT(S) to LOW-INCOME persons or households from a list prepared by the A.H.A., until such time as the A.H.A. can purchase the DWELLING UNIT(S). If, after two (2) years, the A.H.A. has not purchased the DWELLING UNIT(S), the developer may sell the DWELLING UNIT(S) as set forth under Option 5 of Section 4.4.3.1 or condition b. of Section 4.4.4.1, after making proper arrangements pursuant to such sections with the Town of Acton or its designee. c) Sale, Lease or Rental of DWELLING UNITS to LOW-INCOME or MODERATE-INCOME Households - DWELLING UNITS set aside for sale, lease or rental to LOW-INCOME or MODERATE-INCOME households shall be restricted for occupancy by qualified households which meet the definition of "LOW-INCOME" or "MODERATE-INCOME" respectively, as set forth in this Bylaw.

4.4.6.2 Resale Controls - Each AFFORDABLE DWELLING UNIT created in accordance with this Section 4.4 shall have limitations governing its resale which must be satisfied before the property can be sold by its owners. The purpose of these limitations is to preserve the long-term affordability of the DWELLING UNIT and to ensure its continued availability to LOW-INCOME or MODERATE-INCOME households. The resale controls shall be established through deed or lease restrictions or otherwise, subject to the approval of the Planning Board, and shall be in force for such maximum period of time from the date of initial sale as may be permitted under applicable state law governing such restrictions. The resale controls shall be established in such a manner so as to be enforceable by the Town of Acton, and renewable by the Town of Acton through standard procedures provided by applicable state law.

4.4.6.3 Maximum Sales Price for AFFORDABLE DWELLING UNITS. a) Initial Sale - The maximum initial sales price shall be set at the most recently published median FAMILY income for the Boston Primary Metropolitan Statistical Area times a maximum multiplier of two and one-quarter (2.25), adjusted for DWELLING UNIT size in accordance with Section 4.4.6.5 below. b) Resales - Maximum sales prices at subsequent resales shall be limited to the median FAMILY income for the Boston Primary Metropolitan Statistical Area as last published prior to the resale, times the same multiplier used at the initial sale, adjusted for DWELLING UNIT size in accordance with Section 4.4.6.5 below, plus the cost of documented capital improvements, other than bedroom additions, garages, and improvements detached from the DWELLING UNIT, at a maximum rate of one percent (1.0%) of the DWELLING UNIT purchase price per year. However, the resale price after inclusion of such capital improvement costs shall in no case exceed one hundred and twenty percent (120%) of the median FAMILY income for the Boston Primary Metropolitan Statistical Area as last published prior to the resale, times a multiplier of two and one-quarter (2.25), adjusted for DWELLING UNIT size in accordance with Section 4.4.6.5 below. These resale limitations shall be recorded as part of the deed restriction.

4.4.6.4 Maximum rental price for AFFORDABLE DWELLING UNITS - The maximum gross monthly rent, including the estimated cost of utilities to be paid by the tenant, shall be twenty percent (20%) of the most recently published median household income for the Boston Primary Metropolitan Statistical Area, divided by twelve (12), adjusted for DWELLING UNIT size in accordance with Section 4.4.6.5 below. The schedule of utilities most recently published for the Acton area by the U.S. Department of Housing and Urban Development for use in federal rent subsidy programs shall be used to estimate the cost of utilities to be paid by the tenant.

4.4.6.5 DWELLING UNIT size adjustments - Maximum sales and resales prices and gross rents of AFFORDABLE DWELLING UNITS shall be further adjusted for DWELLING UNIT size by multiplying the amounts computed under Sections 4.4.6.3 and 4.4.6.4 above by the applicable adjustment factor as follows:

DWELLING UNIT Size Adjustment Factor 1 or 2 Bedroom 0.90 3 Bedroom 1.00 4 or more Bedroom 1.10

4.4.6.6 Right of first refusal - All deed restrictions and/or restrictive covenants for AFFORDABLE DWELLING UNITS shall require that the owner grants a Right of First Refusal to the Town of Acton or its designee at the restricted resale value, and that the owner provides notice of such Right of First Refusal to the Town of Acton or its designee prior to selling his/her DWELLING UNIT. If the Town of Acton or its designee fails to exercise its Right of First Refusal by signing a Purchase and Sales Agreement within thirty (30) days of receipt of the owner's notice, the owner may thereafter proceed to sell the AFFORDABLE DWELLING UNIT at the restricted resale value to any person or household who meets the applicable income guidelines. The owner, in consultation with the Town of Acton or its designee, shall make a diligent effort to locate eligible purchasers. If no eligible Purchaser is found after the expiration of ninety (90) days, the owner may proceed to sell the AFFORDABLE DWELLING UNIT to any purchaser of his or her choice, provided however that any deed restrictions, covenants, agreements and/or other mechanisms restricting, rent levels and resale prices shall remain in effect.

4.4.6.7 Relationship to Public Funding Programs - Applicants may elect to utilize public subsidies in connection with the AFFORDABLE DWELLING UNITS required by this Section 4.4. Such election is subject to the DWELLING UNIT price limitations of the funding program and the approval by the funding agency.

4.4.6.8 Ratio of DWELLING UNITS to be Set aside for LOW-INCOME or MODERATE-INCOME Households - The ratio of the number of DWELLING UNITS to be set aside for LOW-INCOME households to the number of DWELLING UNITS to be set aside for MODERATE-INCOME households, and the Option or combination of Options provided under Section 4.4.3.1, and the conditions or combination of conditions provided under 4.4.4.1, shall be subject to the approval of the Planning Board as a part of the Special Permit.

4.4.7 Application Requirements - Applicants for a Major or Minor AFFORDABLE Housing Development shall submit a plan and application that meet the requirements of this Section 4.4, including an indication of the number, type and location of all AFFORDABLE DWELLING UNITS; a complete Development Pro Forma including an indication of all costs to the buyers or renters of AFFORDABLE DWELLING UNITS; identification of proposed governmental subsidy arrangements; and all other information which may be required by the Acton Planning Board under the Rules and Regulations for Open Space Developments (Minor AFFORDABLE Housing Developments) or under the Rules and Regulations for Major AFFORDABLE Housing Developments, as

applicable.

4.4.8 Additional Requirements

4.4.8.1 Preference for Town residents and persons employed within the Town Unless otherwise prohibited by a federal or state agency under a financing or other subsidy program, at least fifty percent (50%) of the AFFORDABLE DWELLING UNITS donated, rented, leased or sold shall be initially offered to Acton residents, to persons employed within the Town of Acton, and to former residents of the Town as follows:

- a) Thirty percent (30%) shall be initially offered to current residents of the Town of Acton.
- b) Ten percent (10%) shall be offered to persons employed within the Town of Acton;
- c) Ten percent (10%) shall be offered to persons who, although not currently residents of the Town, resided in the Town of Acton for a minimum of five (5) years within the past fifteen (15) years.

4.4.8.2 Where an AFFORDABLE Housing Development does not generate a sufficient number of AFFORDABLE DWELLING UNITS to satisfy, in terms of whole DWELLING UNITS, all of the local preference requirements as set forth herein, the AFFORDABLE DWELLING UNITS in such a development shall be offered to eligible purchasers based on the following priorities: first - current residents pursuant to 4.4.8.1.a. (up to 30%); second - persons employed within Acton pursuant to 4.4.8.1.b. (up to 10%); third - persons who previously resided in Acton pursuant to 4.4.8.1.c.

4.4.8.3 Persons who both reside and work in the Town of Acton shall be counted as residents only.

4.4.8.4 Residency in the Town of Acton shall be established through certification by the Town Clerk based on the Town Census, voter registration, or other acceptable evidence.

4.4.8.5 These restrictions shall be in force for a period of four (4) months from the date of the first offering of sale or rental of a particular DWELLING UNIT to the public. The Town of Acton or its designee, or the developer, as applicable, shall make a diligent effort to locate eligible purchasers and/or renters who meet the above qualifications as well as the applicable income requirements.

4.4.8.6 Results of all percentages herein shall be rounded to the next whole number to determine the actual number of AFFORDABLE DWELLING UNITS to be offered to each of the preference groups.

4.4.8.7 Purchaser/tenant selection - Procedures for the selection of purchasers and/or tenants shall be subject to approval by the Town of Acton or its designee.

4.4.9 Enforcement

4.4.9.1 Restrictive documents - AFFORDABLE DWELLING UNITS shall be rented or sold subject to applicable deed covenants, contractual agreements and/or other mechanisms restricting such features as the USE and occupancy, rent levels, and sales prices of such DWELLING UNITS to assure their affordability.

4.4.9.2 Enforcement upon Transfer of DWELLING UNIT - Nothing in this Section 4.4 shall be construed to cause eviction of a home owner or tenant of an AFFORDABLE DWELLING UNIT due to loss of his/her eligibility status during the time of ownership or tenancy. Rather, the restrictions governing an AFFORDABLE DWELLING UNIT shall be enforced upon resale, re-rental or re-lease of the AFFORDABLE DWELLING UNIT, or, in the case of a rental DWELLING UNITS, by such other appropriate mechanism as the Planning Board may specify in its Special Permit. Any mechanism and remedy to enforce the restrictions governing an AFFORDABLE DWELLING UNIT shall be set forth in a deed covenant or other appropriate recordable document.

4.4.9.3 All Restrictions Remain in Effect - Nothing in this Section shall be construed to allow any deed restrictions, covenants, agreements and/or other mechanisms restricting such items as the use and occupancy, rent levels, and resale prices of AFFORDABLE DWELLING UNITS, and the enforcement thereof to expire prior to any maximum limitations set forth by applicable state law.

4.4.9.4 Timing of commitments - All contractual agreements with the Town of Acton and other documents necessary to insure compliance with this Section shall be executed prior to and as a condition of the issuance of any special permit required to commence construction.

4.4.9.5 Timing of construction - As a condition of the issuance of a special permit under this Section, the Planning Board may set a time schedule for the construction of both AFFORDABLE and market-rate DWELLING UNITS. No Certificate of Occupancy shall be issued for any market-rate DWELLING UNITS in a development subject to the requirements of this Section until there have been issued Certificates of Occupancy for AFFORDABLE DWELLING UNITS in an amount equal to the percentage of AFFORDABLE DWELLING UNITS which are to be constructed in the development. For instance, if twenty percent (20%) of the development is to consist of AFFORDABLE DWELLING UNITS, and ten (10) market-rate DWELLING UNITS are seeking Certificates of Occupancy, at least two (2) AFFORDABLE DWELLING UNITS shall have received Certificates of Occupancy.

Affordability also addressed in "Special Provisions for the East Acton Village District":

5.5B Special Provisions for the East Acton Village District

5.5B.1 Design Provisions for the East Acton Village District

5.5B.1.1 Purpose - In the East Acton Village District, the principal goal guiding the regulations set forth herein is to sustain and encourage a vital business center that provides needed goods, services, and jobs in a manner that is compatible with Acton's historic development pattern and establishes pedestrian accessibility and circulation throughout the East Acton Village area in order to limit vehicular congestion. These regulations will provide clear guidance to those who would like to expand or locate businesses in the East Acton Village District. They will also ensure that future development will help create the form, cohesion, order, and supporting infrastructure that will identify the East Acton Village District as an attractive, pleasant, and desirable center for business, shopping; and other commercial and community activities.

5.5B.2.2 Variable Density Options - For a LOT in the East Acton Village District, the Board of Selectmen may grant a Special Permit for increases in density by allowing additional NET FLOOR AREA above the FLOOR AREA RATIO of 0.20 set forth in the Table of Standard Dimensional Regulations. To increase the density, the options a) through d) set forth below may be selected and combined in a flexible manner to increase the NET FLOOR AREA up to a maximum FLOOR AREA RATIO of 0.50 on the LOT. To the extent that this Special Permit may coincide or overlap with other special permits from the Board of Selectmen in other sections of this Bylaw, they shall be processed concurrently so far as practical:

c) Affordable Housing - Density on the LOT may be increased if the proposed development includes at least 1 affordable DWELLING UNIT or 10% affordable DWELLING UNITS on the LOT, whichever is greater, subject to the standards and requirements set forth in the following subsections. The amount of NET FLOOR AREA that is added under this option shall not exceed the equivalent of a FLOOR AREA RATIO of 0.10 on the LOT.

i. The term "affordable DWELLING UNIT" as used in this Section shall mean a DWELLING UNIT that is restricted to sale, lease or rental to persons or households within specific income and asset limitations, and at specific price limits, both as established in provisions of any State or Federal rental assistance programs, subsidy programs for reducing mortgage payments, or other programs that provide for affordable housing for low and moderate income persons or households, and that are in effect at the time that the Board of Selectmen receive the Special Permit application.

ii. Affordability Standards - Subject to the Board of Selectmen's approval, an applicant for a density bonus under this option may utilize an available State or Federal assistance program or choose to meet affordability, requirements by utilizing income and asset standards, and by establishing rents, leases, sales prices, entry fees, condominium fees, and other costs for affordable DWELLING UNITS that are generally consistent with available affordable housing assistance programs.

iii. Affordability Restrictions - Affordable DWELLING UNITS shall be maintained as such in perpetuity. Each affordable DWELLING UNIT shall be rented or sold to its initial and all subsequent buyers or tenants subject to deed riders, restrictive Covenants, contractual agreements, or other mechanisms restricting the USE and occupancy, rent levels, sales prices, resale prices, and other cost factors to assure their long term affordability. These restrictions shall be in force for perpetuity. They shall be enforceable and renewable by the Town of Acton through standard procedures provided by applicable law.

iv. The Board of Selectmen may require that the restrictions for affordable DWELLING UNITS contain a Right of First Refusal to the Town of Acton or its designee at the restricted resale value, and that the owner provides notice of such Right of First Refusal to the Town of Acton or its designee prior to selling the affordable DWELLING UNITS with adequate time for the Town or its designee to exercise the Right of First Refusal.

v. Nothing in this Section shall be construed to cause eviction of an owner or tenant of an affordable DWELLING UNIT due to loss of his/her income eligibility status during the time of ownership or tenancy. Rather, the restrictions governing an affordable DWELLING UNIT shall be enforced upon resale, rental, or re-lease of the affordable DWELLING UNIT. The mechanisms and remedies to enforce the restrictions governing an affordable DWELLING UNIT upon resale, re-rental, or re-lease shall be set forth in its deed restrictions.

vi. All contractual agreements with the Town of Acton and other documents necessary to insure the long term affordability of an affordable DWELLING UNIT shall be executed prior to the issuance of any building permit that will implement the increase in density authorized under the Special Permit.

vii. Locations and compatibility of affordable DWELLING UNITS - Affordable DWELLING UNITS shall be dispersed throughout the development to insure a true mix of market-rate and affordable DWELLING UNITS. The exterior of affordable DWELLING UNITS shall be compatible with, and as much as possible indistinguishable from, market-rate DWELLING UNITS on the same LOT. All internal design features of affordable DWELLING UNITS shall be substantially the same as those of market-rate DWELLING UNITS.

viii. Local Preference - To the maximum extent practical and subject to applicable Federal or State financing or subsidy programs, the affordable DWELLING UNITS shall be initially offered to qualified low and moderate income households that meet local preference criteria established from time to time by the Town of Acton or the Acton Community Housing Corporation. Procedures for the selection of purchasers and/or tenants shall be subject to approval by the Town of Acton or its designee. The local preference restriction shall be in force for 120 days from the date of the first offering of sale or rental of a particular affordable DWELLING UNIT. The applicant shall make a diligent effort to locate eligible purchasers or renters for the affordable DWELLING UNIT who meet the local preference criteria and the applicable income requirements.

ix. Timing of construction -As a condition of the issuance of a Special Permit under this Section, the Board of Selectmen may set a

time or development schedule for the construction of affordable DWELLING UNITS and market-rate DWELLING UNITS on the LOT.

SECTION 9B. SENIOR RESIDENCE

9B.12 Affordability

Some of the DWELLING UNITS in a SENIOR Residence development shall be sold, rented, or leased at prices and rates that are affordable to LOW and MODERATE INCOME SENIORS, as more specifically set forth in the following:

9B.12.1 AFFORDABLE SENIOR RESIDENCE defined

The term AFFORDABLE SENIOR RESIDENCE as used in this section 9B shall refer to DWELLING UNITS, which are restricted to sale, lease or rental (1) to SENIORS within specific income and asset limitations, and (2) at specific price limits, both in accordance with provisions set forth in any State or Federal rental assistance programs, subsidy programs for reducing mortgage payments, or other programs that provide for affordable housing for low and moderate income SENIORS, and that are in effect at the time that the project application is made to the Planning Board.

9B.12.2 Basic Affordability Component - At least 5% of the DWELLING UNITS in a SENIOR Residence development, rounded to the next integer, shall be AFFORDABLE SENIOR RESIDENCES. When rounding, fractions of .5 shall be rounded up.

9B.12.3 Density Bonus Option 9B.12.3.1 The total number of allowable DWELLING UNITS in a SENIOR Residence development may be increased to 6 per acre in the R-2 District, and to 4 per acre in the R-4, R-8, R-8/4 and R-10/8 Districts provided that at least 10% of the DWELLING UNITS in the SENIOR Residence development are AFFORDABLE SENIOR RESIDENCES.

9B.12.3.2 The total number of allowable DWELLING UNITS in a SENIOR Residence development may be increased to 7 per acre in the R-2 District, and to 5 per acre in the R-4, R-8, R-8/4 and R-10/8 Districts provided that at least 15% of the DWELLING UNITS in the SENIOR Residence development are AFFORDABLE SENIOR RESIDENCES.

9B.12.3.3 Rounding to whole unit numbers shall be made to the nearest integer. When rounding, fractions of .5 shall be rounded up.

9B.12.3.4 The Planning Board may further adjust or waive the dimensional requirements of section 913.5, the parking requirements of section 9B.6, and the Common Land requirements of 913.9 to the extent reasonable and necessary to facilitate the production of affordable DWELLING UNITS under this density bonus option.

9B.12.4 Affordability Standards - Subject to Planning Board approval, an applicant for a SENIOR Residence special permit may utilize an available State or Federal assistance program or choose to meet the AFFORDABLE SENIOR RESIDENCE requirements by utilizing income and asset standards, and by establishing rents, leases, sales prices, entry fees, condominium fees, and other costs for AFFORDABLE SENIOR RESIDENCES that are generally consistent with available affordable housing assistance programs.

9B.12.5 Affordability Restrictions-AFFORDABLE SENIOR RESIDENCES shall be maintained as such for the life of the SENIOR Residence development. Each AFFORDABLE SENIOR RESIDENCE shall be rented or sold to its initial and all subsequent buyers or tenants subject to deed riders, restrictive covenants, contractual agreements, or other mechanisms restricting the USE and occupancy, rent levels, sales prices, resale prices, and other cost factors to assure their long term affordability. These restrictions shall be in force for such maximum time as may be permitted under applicable state law governing such restrictions. They shall be enforceable and renewable by the Town of Acton through standard procedures provided by applicable law.

9B.12.5.1 The Planning Board may require that the restrictions for AFFORDABLE SENIOR RESIDENCES contain a right of first refusal to the Town of Acton or its designee at the restricted resale value, and that the owner provides notice of such right of first refusal to the Town of Acton or its designee prior to selling the AFFORDABLE SENIOR RESIDENCE with adequate time for the Town or its designee to exercise the right of first refusal.

9B.12.5.2 Nothing in this Section shall be construed to cause eviction of an owner or tenant of an AFFORDABLE SENIOR RESIDENCE due to loss of his/her income eligibility status during the time of ownership or tenancy. Rather, the restrictions governing an AFFORDABLE SENIOR RESIDENCE shall be enforced upon resale, re-rental, or release of the AFFORDABLE SENIOR RESIDENCE. The mechanisms and remedies to enforce the restrictions governing an AFFORDABLE SENIOR RESIDENCE upon resale, re-rental, or re-lease shall be set forth in its deed restrictions.

9B.12.5.3 All contractual agreements with the Town of Acton and other documents necessary to insure the long term affordability of an AFFORDABLE SENIOR RESIDENCE shall be executed prior to the issuance of any building permit for it.

9B.12.6 Locations and compatibility of AFFORDABLE SENIOR RESIDENCES - AFFORDABLE SENIOR RESIDENCES shall be dispersed throughout the development to insure a true mix of market-rate and AFFORDABLE SENIOR RESIDENCES. The exterior of AFFORDABLE SENIOR RESIDENCES shall be compatible with, and as much as possible indistinguishable from, market-rate DWELLING UNITS in the SENIOR Residence development. All internal design features of AFFORDABLE SENIOR RESIDENCES shall be substantially the same as those of market-rate DWELLING UNITS.

9B.12.7 Local Preference - Unless otherwise regulated by an applicable Federal or State agency under a financing or other subsidy

program, at least sixty-five percent (65%) of the AFFORDABLE SENIOR RESIDENCES shall be initially offered to Acton SENIORS.

9B.12.7.1 Residency in Acton shall be established through Town Clerk certification based on the Town Census, voter registration, or other acceptable evidence.

9B.12.7.2 Purchaser/tenant selection - Procedures for the selection of purchasers and/or tenants shall be subject to approval by the Town of Acton or its designee.

9B.12.7.3 These restrictions shall be in force for 120 days from the date of the first offering of sale or rental of a particular AFFORDABLE SENIOR RESIDENCE. The developer of the SENIOR Residence shall make a diligent effort to locate eligible purchasers or renters for the AFFORDABLE SENIOR RESIDENCE who meet the local preference criteria and the applicable income requirements.

9B.12.8 Timing of construction - As a condition of the issuance of a special permit under this Section, the Planning Board may set a time or development schedule for the construction of AFFORDABLE SENIOR RESIDENCES and market-rate DWELLING UNITS in the SENIOR Residence.

Acton has an incentive-based affordable housing overlay district as opposed to the mandatory inclusionary zoning system. In the June 19, 2004, Community Development Plan, one of Acton's recommendations is to move from the incentive-based system to the mandatory inclusionary system.

"Recommendations

To address the needs identified in this plan, Acton should implement the following actions:
Zoning & Land Use²²

1) Replace the existing Affordable Housing Incentives and Overlay District bylaw (Section 4.4) with a simplified Inclusionary Housing Bylaw that requires affordable dwelling units in all residential developments of five or more homes and does not obligate the developer to seek a special permit.

a) Apply the Inclusionary Bylaw to all zoning districts in which residential uses are allowed, and to all types of residential uses, in any development of six or more housing units.

b) Establish a base inclusionary requirement, e.g., 10% of all dwelling units in any project subject to the bylaw.

c) Offer developers a menu of choices to comply, subject to approval by the Planning Board:

(1) Include units in the development.

(2) Provide equivalent units in another location in Acton.

(3) Pay a fee in lieu of creating new units, the fee to be equal to the difference between an affordable purchase price as defined by DHCD's Local Initiative Program (LIP) and the median single-family home or condominium sale price for the most recent fiscal year, as determined by the Board of Assessors.

(4) Donate to the town a parcel of land with equivalent development capacity, restricted for affordable housing use.

d) Provide a density or floor area ratio bonus by special permit to encourage additional affordable units in zoning districts that allow higher-density development.

e) Condition the release of occupancy permits on the town's receipt of affordable unit documentation." (p. 17-18)

What year was the inclusionary/incentive provision adopted?

1990 Answer based on 7/27/04 email response from Kristin Alexander, Acton Assistant Town Planner --

"1) Our affordable housing zoning overlay districts were created November 28, 1990."

Acton's June 2004 Community Development Plan states that the Affordable Housing Incentives and Overlay District bylaw was passed in the early 1990s. It was recommended in the 1991 Master Plan and by the time of the 1998 Master Plan Update, it had been implemented.

Have affordable units been developed through this zoning mechanism?

Yes 7/29/04 email from Kristin Alexander, Assistant Town Planner in Acton, on results of the affordable housing incentive overlay -- "I realized that I told you that only 3 developers have utilized the affordable housing overlay option -- which is correct -- but I didn't give you any numbers to compare it to. So this morning I did a rough count on how many developers who proposed subdivisions could have used one of the affordable housing development options, and counted 22. I'm not sure how many housing units came out of the 22 projects. So out of the 22 projects developed in the affordable housing overlay zones since 1990, only 3 of them chose to develop under the affordable housing option."

7/27/04 email from Kristin Alexander, Acton Assistant Town Planner --

"Only 3 developers have utilized the affordable housing zoning option. 2 developers chose the minor affordable housing option: 1 project had 12 units (including converting 1 existing home to an affordable unit) and 1 project had 25 units (including creating 1 affordable unit). 1 developer chose the major affordable housing option but also had to ask and receive several variances to create the affordable housing project he wanted. That developer created 16 units with 4 affordable units.

To summarize, since 11/1990, our "optional" inclusionary zoning program has been used 3 times creating 53 units total; 6 of which were affordable."

7/27 email response from Kristin Alexander, Acton Assistant Town Planner --

"2) I need to get back to you tomorrow on this question. I tried researching this for you today, but quickly realized that we don't track developments in a way where I can figure out the number of affordable units created from the program very easily. It is also difficult to figure out which developers/developments chose an affordable housing development option. I can tell you that the affordable housing overlays, in Planning staffs' opinion, have not been very successful because very few developers have chosen the option."

Acton's June 2004 Comprehensive Development Plan -- "To Live in Acton: Acton Community Development Plan".

"Since the early 1990s, Acton officials have used zoning and small comprehensive permits to approve about 25 affordable housing units that are or will be eligible for listing on the Subsidized Housing Inventory, and to negotiate cash contributions from developers to the town's affordable housing efforts." (p. 9)

"Acton's success at producing any affordable housing under its Affordable Housing Incentives and Overlay District bylaw is remarkable, yet the bylaw has not accomplished what local officials hoped when it was adopted in the early 1990s." (p. 14)

The 1998 Master Plan Update also discussed Acton's success with the Overlay District.

ACTON MASTER PLAN UPDATE
December 1998

"Affordable Housing

In contrast to the strong market for construction of single family homes, no multi-family residences have been constructed since the 1991 Plan, and the 1990s have not seen inflation of the costs of the multifamily housing—much of which was constructed during the previous decade. This has resulted in a continued supply of apartments and condominiums affordable to households with a range of incomes. Despite Acton's best efforts, however, the strong market for more expensive homes meant that the incentives for constructing new affordable homes were not attractive enough to shift private development toward affordable units.

The Town's Affordable Housing Overlay District is intended to provide a density bonus to induce developers to construct affordable units in new subdivisions. However, the formula for determining allowable density is complex, even to Town staff. In combination with the strong market for upscale housing, the complexities of the formula and the special permit process have prevented this approach from becoming an effective tool for producing affordable housing.

Local efforts had some success in gaining cooperation from developers of relatively expensive projects who have contributed to a fund for purchasing existing homes and reselling them at affordable prices.²⁷ In each case there was no density bonus, and the development could have proceeded without the donations. The strategy of using donations to purchase and convert homes to affordability works well to achieve affordable homes in scattered neighborhood locations near services and amenities. The number of units gained has been limited by the cost of buying homes in Acton, however. The Acton Community Housing Corporation is planning to apply the \$100,000 that currently remains in the housing fund toward such strategies as buying down mortgage rates to help homebuyers enter the market.

Footnote 27: Donations have been received from New View (\$100,000), Acorn Park (\$200,000), and Bellows Farms (\$672,000). Except in the case of New View, there was no density bonus." (p. 116)

Amesbury

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

No [Not traditional "inclusionary"]

Not exclusively for affordable housing, but the Building Permit Allocation System (aka "Smart Housing Growth Bylaw") has specific provisions to promote affordable housing development.

10% affordable units give applicant more 'points' so their permit application may get approved sooner. 25% affordable units exempts applicant from 48 permits per year limitations in Amesbury. See text below.

According to Town Planner Nipun Jain, the results have been "better site planning on ANR lots; revitalization projects get all permits at same time, therefore providing incentive to developer; new projects provide the necessary infrastructure improvements to the neighborhood; 20 affordable units created." - E-mail communication with Amesbury Town Planner Nipun Jain, 1/06/05

"E. Building Permit Allocation System

1. Purpose The purpose of this Bylaw are the following:

1. To ensure that housing growth occurs in an orderly manner, consistent with recent average growth rates, so that the local economy can be insulated from large year-to-year variation in the development rate;

2. To ensure that the Town can continue to provide adequate municipal services and ministerial support to new and existing housing development, and to allow for orderly planning for infrastructure and other community investment, while at the same time allowing for reasonable housing growth;

3. To provide the Town with reasonable time and opportunity to study the effect of housing growth on Amesbury's infrastructure, character, municipal services and natural, cultural and historic resources, and to guard against short-term patterns that may be inconsistent with or impede effective implementation of the Town's anticipated new Master Plan;

4. In accordance with the Town's 1996 Open Space and Recreation Plan, 1998 Downtown Economic Diversification Strategy, 1998 Upper Millyard Market and Feasibility Study, 1999 Preservation Plan, and 2000 Housing Certification process, this Bylaw seeks to preserve and enhance the unique cultural, environmental and historic resources of Amesbury by encouraging infill and adaptive reuse within our existing urbanized areas as well as preserving our rural open space with cluster subdivision design;

5. To provide an orderly and systematic mechanism for reviewing, evaluating and awarding building permit applications that is fair and equitable;

6. To continue the active promotion of affordable housing within the urbanized area of Amesbury where existing social, infrastructure, commercial, civic and other public resources are most accessible to new housing developments.

2. Applicability This Bylaw shall apply to all building permit applications for the construction of new single-family dwellings, multiple-family dwellings, condominiums, cooperatives, or other residential uses, submitted after the effective date of the Bylaw, except as expressly exempted herein. The Term of this Bylaw shall be from its first date of adoption until the date the Municipal Council votes to adopt the Master Plan or June 28, 2005, whichever event occurs first. This Bylaw is intended to be in effect for a maximum period of two years from its date of adoption. Its full terms and conditions shall end and be of no further effect at the end of the said two years or when a new Master Plan is voted as finally accepted by the Municipal Council, whichever event occurs first. This Bylaw does not preclude the Town of Amesbury Municipal Council from reviewing and voting on zoning changes which come before the Council, such that said changes may be reviewed to be in conformity with the intent and purpose of a proposed or preliminary Master Plan.

3. Building Permit Allocation Limits:

Upon adoption of this Bylaw, and until such time as said Master Plan has been finally approved by the Municipal Council but not to exceed two (2) years, the Town's Building Commissioner (hereinafter "Commissioner") shall annually issue building permits for no more than forty-eight (48) new residential dwelling units including the installation of a foundation, unless listed as "exempt" in Section V.E.1.8. Such permits shall be awarded by the Building Permit Point Table (hereinafter "Table") as defined in Section V.E.1.7., supervised by the Commissioner. This limit is imposed solely as an interim measure to regulate housing growth in the Town until such time as a Master Plan may be developed and approved.

4. Single & Multi-Unit / Lot Developments: Building permits shall be issued for no more than twelve (12) dwelling units during and twelve (12) month period with no more than one (1) per month issued for the construction of a single unit / lot housing development including but not limited to the following: Approval Not Required Subdivision Plan; Lot of Record; or single unit residential conversions. Building permits shall be issued for no more than thirty-six (36) dwelling units during any twelve (12) month period for the construction of new multi-unit / lot housing development including but not limited to the following: a Definitive Subdivision (Form C); Cluster Residential Developments; Multi-lot ANR Developments; multiple-family dwellings; condominiums; cooperatives and other nonexempt housing uses.

5. Subdivision and Application Restrictions: Unless listed as "exempt" under Section V.E.1.8., no more than twelve (12) of the forty-eight (48) new residential dwelling units described above shall be issued to any one (1) applicant in any twelve (12) month period. For the purposes of this section, an applicant may not act in an individual capacity in one month and in another capacity (e.g., partnership, realty trust, corporation, LLC, LLP, etc.) in another month to defeat the intent and purpose of this section. Applicants shall not submit during any period more applications than the number of available building permits to which the applicant would be entitled during such period in accordance with this Bylaw. During any twelve (12) month period subsequent to the effective date of the Bylaw, no more than eight (8) new residential dwelling units described above shall be issued for the construction in any one (1) subdivision or development. In the event that the full annual allotment of building permits are not issued, no unissued permits shall carry over into the following year. Nothing herein shall be construed to require the issuance of building permits for at least forty-eight (48) new residential dwelling units.

6. Procedures:

A. All new housing developments, including those listed in Section V.E.1.4, shall be scored by the Board according to the Table in Section V.E.1.7 at the time of approval. In the event that a nonexempt housing unit Application for Building Permit is filed with the Commissioner for a housing unit that was not subject to Board approval under the provisions of this Bylaw, the Commissioner shall evaluate and score such projects.

B. The applicant shall complete and file a Building Permit Application (hereinafter "Application") to the Commissioner. Such Application shall require specific information identifying the applicant, the site of the proposed new housing and the total points allocated according to the Table outlined in Section V.E. 1.7.

C. During normal business hours, the Commissioner shall accept and date-stamp Application forms from applicants. The Commissioner shall follow the criteria established below for the issuance of all residential building permits.

D. In the event the plan approved by the Board has been modified due to other permitting requirements, the Commissioner shall review and assign a revised permit score according to the Table Outlined in Section V.E.1.7.

1. Obtaining permits for single unit / lot housing developments: Commencing on July 1, 2001, and

as long as the Smart Housing Growth Bylaw remains in effect, on the first business day of each month, the Commissioner shall review and rank the applications for single lot / unit developments submitted and issue a building permit to the application with the highest score. In the event applications have equal scores, priority will be given to the first to be filed and date-stamped in the Inspection Office. 2. Obtaining permits for multi unit / lot housing developments: Building permits shall be issued according to the following distribution Table: Number of Points in Project Number of new residential dwelling units available per year Less than 30 1 31-40 2 41-50 4 51-60 6 Over 60 8 The total new residential dwelling units obtained within this section shall not exceed the maximum annual limit and review process established in Sections V.E.1.3.&4. Projects greater than eight (8) lots or eight housing units shall receive building permits in a subsequent annual allotment.

E. Said applications for building permits are not transferable to any other person, other than the applicant identified on the Application, not to any site other than as identified on the Application. The Commissioner shall not, in any instance, issue more building permits than required for forty-eight (48) new residential dwelling units in any calendar year. F. Applications which are not selected by the Commissioner in the monthly applications shall automatically be placed in the following month's applications. G. Any Application that is deemed, in the discretion of the Commissioner, as incomplete shall be rejected, unless the deficiencies cited by the Commissioner are remedied within fourteen (14) days of notification. Any rejected Application shall be returned to the applicant along with a short statement indicating the basis for said rejection. H. If a building permit application is accepted and approved by the Commissioner, a building permit may be issued at any time within thirty (30) days of said approval. Notwithstanding, the building permits are not required to be issued in the order in which the building permit applications were received. I. For the purposes of determining compliance with this Bylaw, the building permit shall be counted as having been issued in the month in which the application was approved, even where a building permit application is approved in one month and the building permit is not issued until a subsequent month.

7. Smart Housing Growth Points Table: A. Location 1. Within the urbanized area 20 B. Disturbance 1. Within the Water Resources Protection District: (one of the following for the project) Zone A / I -20 Zone B / IWPA -10 Zone C - 5 2. Development of slopes: (one of the following for the project) over 25% -20 between 15-25% -10 between 10-15% - 5 3. Wetlands / Floodplain: (one of the following for each jurisdictional wetland/floodplain) Greater than 5000 SF alteration -20 Less than 5000 SF alteration -15 Less than 25 foot buffer -10 Between 25 and 50 foot buffer - 5 C. Roads, Utilities & Drainage: (each of the following sections) 4 1. Use of common access driveway 10 Dead-end street over 750 feet in length -0.05 per foot over 2. Off-site improvements to existing road and sidewalks see table On-site easements for future public road system 5 3. Off-site improvements to public water system see table On-site easements for future public water system 5 4. Off-site improvements to public sewer system see table On-site easements for future public sewer system 5 5. Off-site improvements to public drainage system see table On-site easements for future public drainage system 5 D. Housing Needs: (each of the following sections) 1. Brownfield Redevelopment 5 20 2. Within a Cluster Subdivision Development 20 Bonus: Affordable Housing 6 10 3. Attached Housing 7 10 E. Open Space Preservation: (each of the following sections) 1. Permanent Conservation Restriction: (one of the following) An area of at least 70% of the property 20 An area of at least 60% of the property 10 2. Private Neighborhood Park 8 10 3. Public Access Trails / Greenways / Conservation Areas / Parks 8 10 F. Historic Preservation & Design Review: (each of the following sections) 1. Relocation Lot for Historic Preservation 9 20 2. Restoration & Reuse of a Historic Structure 10 20 3. Demolition of Historic Structure 11 -20 4. Design Review 12 20 G. Previous Application 13 2 Table Footnotes 1. Includes the R-8, R-20, CBD, ICZD, and PUD Zoning Districts, as shown on the Amesbury Zoning Map. 2. Includes all activities within the proposed "limit-of-work" of construction except for: required health and safety improvements to existing municipal sewer, water or drainage systems; wetlands replication; or establishing/maintaining recreational trails. Note, a slope analysis may be required. 3. Includes all activities within the proposed "limit-of-work" of construction for all wetlands as defined under 310CMR and floodplains defined under Section XII.

4. Off-site improvements include only those improvements directly linked to the specific project and not required for approval due to public health and safety requirements. Any off-site improvements will be evaluated using the following distribution table: Road, Utilities & Drainage* Points per linear foot Concrete Sidewalks 0.01 Full-Width Road - overlay 0.01 Full-Width Road - partial reconstruction 0.01-0.35 Full-Depth Road - reconstruction 0.5 Granite Curbing 0.04 Water line 0.03 Sewer line 0.04 Drainage line 0.03 Other utility improvements * * In order to receive points for off-site improvements, the Town Engineer shall review, classify and report in writing to the Planning Board prior to the final approval.

5. Includes all properties identified through the DEP as Tier Classified Sites.

6. At least 10% off the development must be consistent with the definition of low and moderate income housing under MGL 40B s.20. Note, all affordable unit(s) / lot(s) are exempt from the total units / lots permitted annually in this Bylaw.

7. At least 20% of the total development units shall be attached housing units.

8. At least 10% of the tract dedicated and maintained as common open space to the homeowners in the development or the public and be developed with landscaping, park equipment or other recreational use as determined by the Planning Board.

9. In meeting the objectives of the Town's 1999 Preservation Plan, the Planning Board may grant an Applicant a density bonus of one (1) buildable lot provided the overall tract of land in the subdivision is greater than five (5) acres in area outside the R-8 Zoning District or greater than one (1) acre within the R-8 Zoning District and the bonus lot be donated and deeded to a nonprofit (501c.3) organization for the exclusive purpose of at least one of the following:

⌧ permanent open space protection for existing, or access to, significant historic resources;

⌧ relocation, restoration & sale of a historic structure (as defined in Article 40 - Demolition Bylaw, Town Bylaws) for use as a single family dwelling unit of for a historic/cultural educational facility;

In determining the appropriate use, size and location of the bonus lot, the Planning Board shall review the specific applicant, neighborhood input at the public meeting as well as input from the Amesbury Historic Commission. Within the R-8 Zoning District, the Planning Board may waive the frontage requirement to sixty (60) feet for the bonus lot. Prior to final approval, the Board shall also require a deed document to the bonus lot with all necessary restriction, covenants and /or conditions of conveyance.

10. Restoration and reuse of all Historic Structures as defined under Article 40-Demolition Bylaw (Town Bylaws) for use as new residential dwelling units with Design Review only.

11. Demolition includes all Historic Structures as defined under Article 40-Demolition Bylaw (Town Bylaws) that have been determined historically significant by the Amesbury Historic Commission and subject to a Demolition Delay period. Note, partial demolition may be permitted without point reduction at the discretion of the Historic Commission. 12. Design Review includes review of the Architectural Design Criteria listed in the "Amesbury Design Guidelines", Section I-IV. Points will be awarded for those

applicants that receive a recommendation from the Design Review Committee indicating consistency with either the New Construction or Renovation, Rehabilitation or Restoration sections of the Design Review Guidelines adopted March, 1999. 13. Applications for single unit / lot developments that have been previously denied under the provisions of this Bylaw will be awarded two (2) additional points per month.

8. Exemptions:

A. Building permits for dwelling units to be constructed within any subdivision approved under the Subdivision Control Law, M.G.L.c 41, Section 81L, et seq., during the exemption period provided in M.G.L., Chapter 40A, Section 6 are specifically exempt for this Bylaw. Similarly, dwellings and dwelling units to be constructed within a development under a Special Permit issued during the exemption period provided in M.G.L., Chapter 40A, Section 6 are exempt from this bylaw.

B. The provision of this Bylaw shall not apply to building permits for the construction of the following:

1. Provided at least twenty five (25) percent of the following uses contain low and moderate income housing under M.G.L. 40B s.20. ⌧ Housing developments to be built as age-restricted or so-called "Supportive Housing or Assisted Elderly Housing" as defined in section V.D.

⌧ Multifamily housing developments in existing structures in the CBD and IC Zoning Districts as described in section XI.J.

⌧ Planned Unit Developments as described in sections XI.H and XI.L.

⌧ Residential Conversions as defined under XI.K.

⌧ All other housing units constructed or structures to be maintained as low or moderate housing as defined by MGL 40B within the R-8, R-20, PUD, IC and CBD Zoning Districts only.

2. The following housing units: ⌧ In-law apartments as defined under XI.K.2.

3. Restoration, expansion, alteration or partial reconstruction of an existing residential dwelling that does not create a new housing unit.

4. All permitted nonresidential projects.

9. Definitions:

A. "Applicant." For the purposes of this Bylaw, an applicant shall be deemed to include an individual, a trustee of a trust, partner or partnership, the beneficiary of a trust, corporation, corporate office or other legal entity in which the entity requesting to submit an application for a building permit holds any legal, beneficial or equitable ownership in the property to be affected.

B. "Multiple-family dwellings." For the purposes of this Bylaw, a multiple family dwelling shall mean a building containing two (2) or more dwelling units.

C. "Subdivision." For the purposes of this Bylaw, a subdivision shall have the same meaning as a development.

D. "Housing Development." For the purposes of this Bylaw, housing development shall mean the establishment of any new dwelling unit, whether on a single lot or unit within a multi-family development.

E. "Dwelling Unit." For the purposes of this Bylaw, a dwelling unit shall mean one or more rooms physically arranged so as to create an independent housekeeping establishment for occupancy by one family with separate toilets and facilities for cooking and sleeping.

10. Construction: This Bylaw shall be construed so as to regulate the design, impact and overall rate of housing development in Amesbury. Any perceived ambiguities shall be resolved so as to promote the intent and purpose of this Bylaw.

11. Severability: The provisions of this Bylaw are hereby declared to be severable, and if any such provision or the application of such provision to any person, entity or circumstance shall be held invalid or unconstitutional, such invalid or unconstitutional provision shall not be construed to affect the validity or constitutionality of any of the remaining provisions of this Bylaw or the application of such provisions to any person, entity or circumstance other than those as to which such provision is held to be invalid."

Amesbury Zoning Bylaw and Map, Adopted April 12, 1971 with Revisions Through October 14, 2003. Section V.E Building Permit Allocation System.

What year was the inclusionary/incentive provision adopted?

Have affordable units been developed through this zoning mechanism?

Town of Amesbury Master Plan, June 2004:

"New private development has created 70 new units of housing downtown between 2001-2004. Of these 70 units, 53 are owner-occupied condominiums and 17 are rental apartments. Ten of the 53 condominiums are affordable in perpetuity and 13 of the 17 rentals are affordable for 15 to 20 year variable terms. These new units contribute approximately 1.1 percent to the Town's total of 6,570 residential units.4 The Upper Millyard Revitalization Project is a \$6.5 million dollar program to renew three historic mill buildings into 46 artisan live/ work condominiums and a heritage/ historic museum space. Other housing development in the area includes a \$1.3 million dollar development at 104-114 Main Street. Working with a private developer, the historic Rand-Adams Block was reconstructed after a fire destroyed the 13,000 square foot, three-story building in 2001. The building offers eight rental units, of which five are affordable, and four commercial spaces. At 26-28 and 32 Elm Street, a former train depot and hotel where a local business was housed for over 50 years, a \$1.2 million dollar transformation created five affordable units and three new commercial spaces. 17 Main Street is the historic Counting House for the Amesbury and Salisbury Mills Park and is being transformed into four rental units, of which three are affordable, and three commercial spaces. The project is estimated to cost \$1.3 million dollars. All of

these projects received one or more state grants through the Town ranging from \$500,000 to \$750,000 to offset construction and design costs."

Andover

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

Yes Code of the Town of Andover Massachusetts, Part II, Article VIII, Section 7.8 (as amended 2003):

"The purpose of this by-law is to encourage the development of affordable housing in the Town of Andover by increasing the supply of housing in the town that is available to low- and moderate-income households. The by-law gives the Board of Appeals authority to issue a special permit modifying dimensional standards for the use of existing nonconforming lots for purposes of affordable housing as defined herein."

From ordinance.com:

SECTION 7.0. SPECIAL RESIDENTIAL REGULATIONS

7.8 Dimensional Special Permit - Affordable Housing

7.8.1. Purpose and Intent:

The purpose of this by-law is to encourage the development of affordable housing in the Town of Andover by increasing the supply of housing in the town that is available to low and moderate-income households. The by-law gives the Board of Appeals authority to issue a special permit modifying dimensional standards for the use of existing non-conforming lots for purposes of affordable housing as defined herein.

7.8.2. Affordable Housing Defined:

For purposes of a DIMENSIONAL SPECIAL PERMIT FOR AFFORDABLE HOUSING , affordable housing is defined as any housing subsidized by the federal or state or local government under any program to assist the construction of affordable housing as defined in the applicable federal or state statute, whether built or operated by any public agency or any nonprofit or limited dividend organization. Any local program shall be subject to applicable state regulations or guidelines.

7.8.3. Standards and Regulations:

The following specific standards shall be applied to a dimensional special permit for affordable housing:

1. At least ninety (90%) percent of the area of the lot shall be comprised of contiguous uplands.
2. The lot shall be served by municipal sanitary sewer and water. In the event municipal sewer is not available the lot shall be capable of supporting an on-site sewage disposal system.
3. There may not be more than one (1) single family dwelling on the lot. ,
4. No dwelling unit may contain more than two (2000) thousand square feet of living area, exclusive of garage space.
5. The Board of Appeals may establish setback requirements that are compatible with adjoining properties.

7.8.4. Findings Required:

In addition to the findings required under Section 9.4.2. of the zoning by-law, the permit granting authority shall consider the following specific items:

1. That the modification of dimensional requirements is necessary to accomplish the purpose and intent of this by-law.
2. That the proposed dwelling is compatible with the existing neighborhood with regard to size and architecture.
3. That in the absence of a special permit, the use of an existing non-conforming lot would not be available for affordable housing.

7.8.5. Conditions to Be Imposed:

If the Board of Appeals grants the special permit, it shall impose as conditions of approval, the following:

1. In the event of a catastrophic event which results in damage to the affordable dwelling such that it cannot be repaired, the owner may rebuild on the lot provided that the new dwelling does not contain more than the same interior floor area as the original dwelling, and meets one of the following requirements:

- a. The new dwelling is placed in the same footprint as the original structure; or
 - b. The new dwelling is built in conformity with the zoning side, front and rear setbacks in effect at the time of the rebuilding.
2. The owner shall record at the North Essex Registry of Deeds an Affordable Housing Restriction in the form approved by the Board of Appeals, and approved and endorsed by the Director of Housing and Community Development in accordance with Chapter 184, sections 31 and 32 of the General Laws, which restriction shall include, but not be limited to the following conditions:
- a. The residential unit shall serve households with household income at or below eighty (80%) percent of the area median income.
 - b. The residential unit shall have a deed restriction and resale formula that keeps the unit permanently affordable.
 - c. The sale of the unit shall be subject to an affirmative and fair marketing plan.
 - d. Any mortgagee shall subordinate its mortgage to this restriction.
3. When the decision of the Board of Appeals on the application for a dimensional special permit for affordable housing has become final, the Notice of Decision and the approved and endorsed Affordable Housing Restriction with any required mortgagee subordination shall be recorded concurrently at the Essex North District Registry of Deeds.

7.8.6. Application Requirements and Procedure:

Sixteen (16) copies of an application for a Dimensional Special Permit for Affordable Housing shall be filed with the Board of Appeals. Copies of the application will be distributed to the interdepartmental review team and a review shall be conducted involving but not limited to staff representatives of Planning, Building, Health, Public Works, Conservation, School, Police, and Fire. Comments from the interdepartmental review shall be submitted to the Zoning Board of Appeals. The application shall include the following information:

- 1. A plan prepared by a Registered Land Surveyor and/or Professional Engineer showing the lot proposed to be used for the development of affordable housing. The plan shall be at a scale of 1" = 20', on a sheet size not smaller than 11" x 24", and not larger than 18" x 24", and shall show the following information:
 - a. All existing property lines with bearings and distances;
 - b. The location and size of all existing structures or buildings on and adjacent to the lot, and the distances between all existing and proposed structures or buildings;
 - c. The public way on which the lot has its frontage;
 - d. Proposed front; side and rear building setback lines;
 - e. Existing and proposed topography (grading);
 - f. Significant trees or other natural features;
 - g. The location and type of utilities serving the lot;
 - h. All wetland areas as shown on the Town's Wetland Maps, or as determined by the Conservation Commission;
 - i. The name of the owner and all parties having any interest in the lot, including book and page numbers of the documents at the Registry of Deeds which describe such an interest,
 - j. A copy of the deed of ownership shall be included with the application;
 - k. All easements on the lot shall be shown as to location, dimensions and type.
- 1. Preliminary architectural details of the proposed affordable dwelling to be constructed on the lot, including square footage, number of bedrooms, height, and proposed exterior details;
- 2. A letter from the Andover Housing Partnership Committee indicating that the applicant has presented the proposal to the committee at a regular public meeting. The letter may contain any recommended conditions for the special permit.
- 3. The provisions of Sections 9.4.1. through 9.4.7. of the zoning by-law shall apply to the application, hearing, decision, conditions and lapse of a dimensional special permit for affordable housing.
- 4. A Dimensional Special Permit issued under this by-law shall contain an account of all required findings and considerations made by the permit granting authority in its decision to allow such exception to the by-laws.

**Webmasters Note: The previous section, 7.8, h

7.2. PLANNED DEVELOPMENT

7.2.1. Applicability. The Planning Board may grant a special permit for Planned Development-Multifamily Dwelling (PD-MD) or Planned Development-Mixed Use (PD-MU) for the following types of structures and uses:

1. PD-MD. (a) conversion or expansion of existing nonresidential structure(s) to multifamily dwellings; or (b) new multifamily dwelling construction;

2. PD-MU. (a) redevelopment, conversion or expansion of existing structure(s) to a combination of multifamily and business uses or a combination of nonresidential uses permitted in the zoning district; or (b) new construction for combined multifamily and business uses or new construction for a combination of nonresidential uses permitted in the zoning district.

a. Exemption from Special Permit Requirement. Any mixed use development comprised only of nonresidential uses shall not require a PD special permit under this section of the by-law if the lot area is less than two acres in size.

7.2.2. Density. The maximum allowable density shall be determined by calculating the required lot area per dwelling unit as follows:

1. General Business District. Two thousand square feet of lot area per dwelling area unit.

2. Mixed Use District. Three thousand square feet of lot area per dwelling unit. The Planning Board may, in its discretion, according to the characteristics of any particular lot, require less than the maximum allowable density.

7.2.3. Dimensional Requirements.

1. Building Height. Any addition or new construction shall not exceed the maximum height allowed by Appendix A, Table 2 of this by-law.

2. Building Coverage.

a. General Business District: In a General Business District, an existing structure occupying more than two-thirds (2/3) of the lot area shall not be expanded. New structures shall not exceed two-thirds (2/3) of the lot area within the General Business district.

b. Mixed Use District: In a Mixed Use District, maximum building coverage shall not exceed forty percent (40%) for new construction or expansion.

3. Building Setbacks.

a. General Business District: In a General Business District, building setbacks shall be determined in accordance with Section 4.1.4.2.b of this by-law.

b. Mixed Use District: In a Mixed Use District, new construction or building expansion shall be set back twenty feet from all property lines.

4. Minimum Lot Frontage. In a Mixed Use District only, the lot shall have a minimum frontage of fifty feet on an existing public way.

5. Setbacks From Residential Dwellings.

a. General Business District: No building in a General Business District shall be erected within fifteen feet of a residential building.

b. Mixed Use District: In a Mixed Use District, no structure shall be constructed nearer than fifty feet from the outside wall of an existing residential dwelling.

7.2.4. Affordability. No application for a PD-MD or PD-MU which contains residential use shall be approved unless at least fifteen percent (15%) of the total dwelling units proposed are devoted to affordable housing, or such percentage as may be required by state or federal subsidy programs; provided, however, that such applications requesting three or fewer dwelling units are exempt from this requirement. "Affordable housing" shall be defined as any housing subsidized by the federal or state government under any program to assist the construction of affordable housing as defined in the applicable federal or state statute, whether built or operated by any public agency or any nonprofit or limited dividend organization. The calculation of affordable units shall be rounded to the next whole number for units equal to 0.5 or greater.

The research posed the question "Does the city/town offer density bonuses as part of the inclusionary zoning program?" to Paul Meterazzo of the Andover Planning Department on 7/15/04. P. Meterazzo stated that there are not any density bonuses in Andover.

S. Colyer, Andover Director of Planning, indicated that in the Town's new Community Development Plan, there are recommendations to increase the incentive zoning and density bonuses.

What year was the inclusionary/incentive provision adopted?

1988 Stephen Colyer, Town of Andover Director of Planning, said in phone interview on 7/19/04 that this rule was passed in 1988.

Have affordable units been developed through this zoning mechanism?

Yes Stephen Colyer, Planning Director, in a phone interview on 7/19/04 indicated that the Town's new Community Development Plan includes recommendations to increase the use of incentive zoning and density bonuses.

Stephen Colyer could only recall how many affordable units have been created in the past couple of years. Based on the 15% affordable unit requirement, 24 affordable units have been created. This number is based upon two developments with 9 affordable units in one and about 15 affordable units in the second.

Arlington

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

Yes Zoning Bylaw Town of Arlington, Section 11.08 (on Arlington website as of August, 2004)

Section 11.08 - Affordable Housing Requirements

a. PURPOSE. The purpose of these requirements is to promote the public health, safety and welfare by encouraging the expansion and upgrading of the Town's housing stock, especially its affordable housing; to provide for a full range of housing choices for households of all incomes, ages, and sizes; to minimize the displacement of lower income Arlington residents; and to increase the production of affordable housing to meet employment needs.

b. APPLICATION. The provisions of this Section 11.08 shall apply to all new Residential projects, including Phased or Segmented Developments, with six or more Units subject to Environmental Design Review pursuant to Section 11.06,b.

c. DEFINITIONS. The following definitions shall apply only to Section 11.08:

Affordable Units:

Residential Units for which the rent (including utilities) shall not exceed 30% of the income of the renting eligible household; or, for which the annual debt service on a mortgage plus taxes, insurance, and condominium fees (assuming a 10% down payment) shall not exceed 30% of the income of the purchasing eligible household.

Eligible Household:

A household whose total income does not exceed 80% of the Median Income of households in the Boston Standard Metropolitan Statistical Area, adjusted for household size.

Fair Market Rent:

An amount determined by the U.S. Department of Housing and Urban Development, and used by the Arlington Housing Authority to determine the maximum rental payment to be paid to an owner under the Section 8 program. Said amount is adjusted for unit size and includes an allowance for utility costs.

Median Income:

The income set forth in or calculated based on U.S. Department of Housing and Urban Development regulations, as amended.

Phased or Segmented Project:

A project on one lot, or two or more adjoining lots in common ownership or common control for which special permits or building permits are sought within a period of two years from the first date of application for any special or building permits for the Project.

Project:

Developments subject to the requirements of Section 11.08.

Residential:

Use items 1.03, 1.04, 1.05, 1.07, 1.10, and 1.13 listed in Table 5.04.

Units:

Dwelling Units, Lodging Units or units within Assisted Living facilities.

d. REQUIREMENTS

1. Fifteen percent (15%) of the Residential Units in new Projects shall be Affordable Units. In determining the total number of Affordable Units required, calculation of a fractional unit of .5 or more shall be regarded as a whole unit.

2. Affordable Units shall be priced to be affordable to Eligible Households.

3. Affordable Units shall be located on the Project site.

(a) In exceptional circumstances the ARB may allow the developer to make a financial contribution to the Affordable Housing Trust Fund in lieu of providing Affordable Units, if it finds that:

(i) it is in the best interest of the Town to do so, or

(ii) the provision of Affordable Units would result in a hardship such as rendering the Project economically infeasible.

(b) The financial contribution for each Unit shall be equal to the difference between the fair market value of a market-rate unit and the price of an Affordable Unit, and shall be payable in full prior to issuance of a final occupancy permit.

(c) Affordable Units shall be dispersed throughout the project and shall be comparable to market-rate units in terms of location, quality and character, room size, number of bedrooms and external appearance.

e. INCENTIVE

1. Notwithstanding the special permit requirement in Section 8.12(a)10, the applicant shall have the option to reduce the number of spaces required in the Table of Off-Street Parking Regulations by up to 10%.

f. ADMINISTRATION

1. The ARB shall be charged with the administration of this Section 11.08 and may promulgate rules and regulations to implement its provisions.

2. Occupancy permits may be issued for fair market rate units prior to the end of construction of the entire project provided that occupancy permits for affordable units are issued simultaneously on a pro-rata basis according to the formula set forth in section d, paragraph 1.

3. Sales prices, resale prices, initial rents and rent increases for Affordable Units shall be restricted to ensure long-term affordability to eligible households, to the extent legally possible.

4. The Affordable Units in Projects shall be subject to a marketing plan approved by the Director of Housing, consistent with Fair Housing laws and the Town's approved Fair Housing policy.

5. Condominium documentation shall provide the owners of the Affordable Units with voting rights sufficient to ensure an effective role in condominium decision-making.

6. All legal documentation shall be reviewed by and subject to approval of legal counsel to the Town."

What year was the inclusionary/incentive provision adopted?

2001

Have affordable units been developed through this zoning mechanism?

Yes Laura Weiner, Planner, said (9/14/04) that six units have been created and occupied. Another eight are coming.

Ashland

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

Yes Ashland Town Bylaws, Chapter 282, Zoning Bylaw, Section 282-41. Multifamily dwellings.
F. In considering approval of a special permit, the Zoning Board of Appeals shall seek an advisory from the Planning Board or its designated agent on the advisability of reducing lot area to seventy-five percent (75%) of that required in Subsection D(1) for an, development sponsored by a public agency, nonprofit, limited dividend organization or cooperative in which forty percent (40%) or more of the dwelling units are to be subsidized for people of low or moderate income under programs regulated and financially assisted by agencies of the government of the United States or of the Commonwealth of Massachusetts under programs for that purpose. The special permit shall impose appropriate safeguards to ensure continued use of forty percent (40%) or more of the family units for subsidized housing. No special permit shall be issued prior to receipt of such advisory, unless forty-five (45) days have elapsed from the date of submission of the request by the Zoning Board of Appeals. Failure to advise within the time limit shall be deemed a favorable recommendation. [Amended 5-12-1993 ATM, Art. 25].

Researcher also found inclusionary provisions in the section on cluster zoning:

Section 282-40. Cluster development.

[Amended 5-12-1993 ATM, Art. 30; 10-16-1996 ATM, Art. 20]

E. Development incentive for affordable housing.

(1) An applicant may apply to increase the number of dwelling units up to a maximum of twenty-five percent (25%) of the units otherwise permitted on the tract under this section, provided that a minimum of ten percent (10%) of all units in the tract are affordable. In all cases affordable units shall be mingled with market-rate housing units.

(2) The applicant for the development incentive shall document the affordable units' sales prices and how that affordability will be guaranteed over time. For the purposes of this section, the affordability criteria and standards for affordability guarantees of the Ashland Affordable Housing Committee shall be used. In the absence of such criteria, the criteria and standards of the Massachusetts Home Ownership Program shall be used. In cases involving the sale of units to the Ashland Housing Authority, the Commonwealth of Massachusetts Executive Office of Communities and Development's standards and regulations governing such

sales shall apply.

(3) The Planning Board shall have the discretion to allow the use of attached dwelling units in a project developed under this section. No more than two (2) dwelling units per structure shall be allowed. Attached dwelling units shall be allowed upon meeting the following conditions:

- (a) Attached units shall not visually detract from the surrounding neighborhood.
- (b) Attached units will not result in an inappropriate density for the site.
- (c) Attached units will result in a greater amount and more beneficial use of open space.

(4) The Planning Board may require as a condition of this section that, in lieu of all or some of the affordable units being provided within the development, the developer shall:

- (a) Provide all or some of the required affordable units on a site different from the development, and provided that in all cases it is reasonably mixed with market-rate housing; or
- (b) Provide all or some of the required affordable housing through alternative means other than those already listed in this subsection.

(5) In the case of a development of five (5) or fewer dwelling units or a development sponsored and operated by a nonprofit or charitable organization, the Planning Board may, at its discretion, modify the requirements of this section to avoid economic hardships.

Inclusionary zoning is also a part of Wildwood Mixed Use Special District.

Section 282-45 Wildwood Mixed Use Special District

G. Dimensional Requirements

(1) Lot Area - Individual lots within the Wildwood Mixed Use Special District shall require a minimum of forty thousand (40,000) square feet.

(a) In "Area A" only, non-senior residential dwellings will require a minimum lot area not less than 5,000 square feet per dwelling unit, plus one thousand square feet per bedroom for a maximum of two (2) bedrooms under the following percentages of development area of that which is buildable in "Area A" only: maximum of 75% "multifamily dwelling" uses (just residential) and/or open space and minimum of 25% mixed uses with commercial (non-residential use on first floor of the mixed use buildings) and/or commercial. Computations for additional housing units in mixed use structures on the second floor or higher shall be calculated at 600 sq. ft. per unit with a maximum of two bedrooms.

(b) At least 10% of all housing units in "Area A" shall be Affordable as defined by the Commonwealth. No single building shall contain more than 25% affordable housing.

(c) Senior residential dwellings require a lot area not less than four thousand square feet per dwelling, plus one thousand fifty square feet per bedroom for two bedrooms.

What year was the inclusionary/incentive provision adopted?

1972 According to Robert Hill, Ashland Building Inspector, (7/22/04) the inclusionary/incentive provisions were first adopted in 1972.

Have affordable units been developed through this zoning mechanism?

No Robert Hill, Building Inspector, commented on 7/22/04 that no units have been built under this provision because developers choose to go through the 40B process.

Attleboro

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

No

What year was the inclusionary/incentive provision adopted?

Have affordable units been developed through this zoning mechanism?

Auburn

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

No According to Town Planner Steve Antinelli, "the issue of affordable housing is not addressed in our by-laws, to the best of my knowledge." In further phone communication, Antinelli reported that "the town certainly needs affordable housing" being at 2.9% affordable units at present. There have not been any 40B projects in town, but he anticipates that when this happens it will spur the development of affordable housing provisions. Most development is commercial and single family.

- Auburn Zoning By-law. As amended through August, 2004.
- E-mail communication from Steve Antinelli, Auburn Town Planner, 12/17/04
- Phone communication with Steve Antinelli, Auburn Town Planner, 1/3/05

What year was the inclusionary/incentive provision adopted?

Have affordable units been developed through this zoning mechanism?

Avon

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

No Avon's zoning bylaws do not include any provisions for inclusionary zoning. They do not address any issues of affordability and housing.

Answer confirmed via 6/25/04 phone conversation with Mr. Comeau

What year was the inclusionary/incentive provision adopted?

Have affordable units been developed through this zoning mechanism?

Ayer

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

Yes Cluster Development provisions "encourage" applicants to include up to 30% affordable units, but no density bonus or other incentive is specified. According to Sue Sullivan, administration officer in Ayer, the planning board 'looks favorably' on applications that include affordable housing.

An extension on the Rate of Development By-Law of 5/10/04 calls for the development of a "balanced development by-law" that will give relief from building permit caps for affordable housing and open space. This new provision is to replace existing rate of development provisions by 12/10/05.

"AFFORDABLE HOUSING UNITS : Units which may be rented or purchased by those who meet the guidelines for maximum annual income for a low-income or moderate-income family or household. The income limit for low income shall be 80% of the median income for Ayer, and the income limit for moderate income shall be 120% of median income for Ayer. Median income for Ayer will be as calculated by the U.S. Department of Housing and Urban Development, or any successor agency, and shall be adjusted for family size." (Definitions section)

Cluster Development provisions:

" 6.135 Affordable Dwelling Units

a. Applicants are encouraged to provide dwelling units that are deemed to be affordable or below market sales price or rental levels for the region. Units may be of the ownership type or, if managed by a duly authorized non-profit or governmental entity, rental type.

b. The applicant shall establish such restrictions, conditions and/or limitations as are necessary to ensure that any designated affordable housing units provided in the development will remain affordable housing on a long term basis, whether said units are of the ownership or rental type. By means of special conditions attached to the issuance of the Special Permit where affordable units are proposed in a cluster, the Board shall establish a requirement that the units remain affordable for a minimum of twenty years or other period set by the Board. Affordability levels shall be indexed over time to rents and sales prices based upon annual household income definitions provided by the HUD Regional Economist, Boston regional office A maximum of thirty (30) percent of the units in a cluster may be designated as affordable units. Affordable housing units shall be geographically dispersed throughout the development, to the degree feasible, in developments with ten (10) or more units."

- Zoning Bylaw of the Town of Ayer, Massachusetts, 1973 (as amended), Art. VI.6, Cluster Development.
- Personal communication with Sue Sullivan, 12/09/04

What year was the inclusionary/incentive provision adopted?

2000 Section 6. Cluster Development

(Added ATM 5/8/00, approved 7/26/00)

- Zoning Bylaw of the Town of Ayer, Massachusetts, 1973 (as amended), Art. VI.6, Cluster Development.

Have affordable units been developed through this zoning mechanism?

Yes The Ayer staff person was not able to report the exact number of units. She confirmed that the provisions are optional, and have no incentive structure, but reported that applications are looked on 'favorably' the review process if they contain affordable units.

Two developments have been built under the Cluster Development provisions. Approximately 2 affordable units of a total of 60 were created. In the other Cluster Development, no affordable units were created, though there was open space protected.

Shaun Suhoski reports that there have been multiple efforts to create affordable units through creative initiatives, and though the Local Initiatives Program, the so-called 'friendly 40B'.

Since 1998, Ayer has gone from 2.1% affordable units to 6.5% today.

- Personal Communication with Susan Sullivan, Administrative Assistant to the Planning Board and Zoning Board of Appeals, 12/09/04.
- Personal Communication with Shaun Suhoski, Director Community and Economic Planning for Ayer.

Bedford

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

Yes Richard Joly, Director of the Planning Department, said: "Yes, the Industrial Mixed Use bylaw requires inclusionary zoning." The researcher asked about the provisions for inclusionary zoning in the Planned Residential Development, and he responded: "That is not mandatory. There is a density bonus in PRDs if you put in affordable housing. In the industrial mixed use bylaw we have mandatory affordable housing."

The Planned Residential Development district has provisions, by special permit, where developers can build more units per acre than allowed otherwise if a certain percentage of the units are affordable.

Town of Bedford Zoning Bylaw, Section 9 (from ordinance.com, updated 2002)

9.2.2.3 Low and Moderate Income Housing

The number of dwelling units may, with Planning Board approval, be increased by up to twice the number obtained through application of subsection 9.2.2.1, if 50% of these additional units, but no less than 10% of the total number of units in the Planned Residential Development, meet the requirements of the Executive Office of Communities and Development, Office of Private Housing for low and moderate income housing under the Local Initiative Program. The developer shall submit an application to the Office of Private Housing, and shall be responsible for submitting all of the material required for this application. The developer shall submit this application to the Office of Private Housing, either at the same time that the Special Permit application is submitted to the Planning Board, or prior to the submittal of such Special Permit application. These low and moderate income units are subject to the following general requirements:

- (a) The units must be serving households at or below 80 percent of median household income.
- (b) The units must be subject to Use Restrictions to ensure that the units remain in perpetuity available exclusively to persons with qualifying incomes.
- (c) The units must be sold or rented on a fair and open basis. The owners of the units must adopt an affirmative fair marketing plan.

9.2.3 Maximum Allowable Density

A number of units in excess of these provisions may be authorized by the Planning Board after approval by Town Meeting of such PRD in accordance with Section 14.8, up to the following maximum densities for the zoning district(s) within which the tract is located; Residence C-five units per acre; Residence B-four units per acre; Residence A-three units per acre; Residence R-two units per acre. Not less than 20% of all units authorized in excess of 25% obtained by the application of Subsection 9.2.2.1 above shall be low and moderate income housing or affordable housing.

From ordinance.com:

1.3.1 AFFORDABLE HOUSING : Dwelling units which are available for rent or purchase to households earning up to one hundred and fifty (150) percent of the median income for the Boston Metropolitan Area as determined by the most recent calculation of the U.S. Department of Housing and Urban Development.

What year was the inclusionary/incentive provision adopted?

2002 Richard Joly, Director of Planning, said (9/2/04) that the inclusionary zoning bylaw for the industrial mixed use district was passed in 2002.

Have affordable units been developed through this zoning mechanism?

No Richard Joly, Director of the Planning Department, said (9/2/04): "We don't have any. No one has ever taken advantage of the voluntary one in the PRD. We are trying to get it with the mandatory one. We have two developments in the early stages. They have about 250 units in each development. We think we will be successful with this new bylaw, the industrial mixed use bylaw, but we have not approved any units yet. We had hoped with the PRD - we gave a doubling of the density. We thought from talking to the developers that that would generate interest, but it hasn't in actuality. The new one that we have had for only two years now is generating a lot of interest. We have two developers interested. If it doesn't work, we will write another one or amend what we have. We will keep trying."

Bellingham

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

Yes The town planner commented that "Targeted Housing" is narrow and lacks incentives. She said she does not consider it to be "inclusionary zoning," and said that it has not been used.

2690. Targeted Housing. On special permit from the Planning Board, dwelling units may be designated as "Targeted", provided that:

- (a) either the development containing the unit qualifies to seek a Comprehensive Permit under Chapter 40B, G.L., or the dwelling unit meets the definition of "Assisted elderly housing" in Section V of this Bylaw
- (b) the Planning Board finds that the housing is consistent with policy guidelines it has approved for Town-wide housing development.
- (c) the Planning Board finds that the location and design of the housing will not result in hazard, overburdening of public services, or neighborhood or environmental degradation.

The lot area requirements for such targeted units shall equal one-half those provided in Section 2600, Intensity of Use Schedule, and frontage requirements shall equal two-thirds of those requirements. All other intensity of use requirements shall be met.

Code of By-Laws, Division II Zoning
<http://www.bellinghamma.org/townclerkbylzo.htm>
 (Revised by Town Clerk 09/2002)

What year was the inclusionary/incentive provision adopted?

Have affordable units been developed through this zoning mechanism?

No The town planner commented that "Targeted Housing" is narrow and lacks incentives. She said she does not consider it to be "inclusionary zoning," and said that it has not been used.

Belmont

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

Yes Town of Belmont Zoning Bylaws, Section 6.9 and 6.10(from Belmont website)

6.9 Affordable Housing

Note: §6.9 was adopted under Article 2 at the 1999 Special Town Meeting.

The Planning Board may grant a Special Permit for any tract of land in a General Residence District located adjacent to the McLean District, which Special Permit shall allow:

- a) the construction and use of an apartment house or other multi-family dwellings which contain at least 25% "affordable units" as defined in Section 6A.2.2 b) and which contain up to 40 dwelling units overall; and
- b) the modification of any intensity or dimensional requirement set forth in Section 4.2 or Section 4.3 as necessary in the determination of the Planning Board to permit such development to contain the greatest practical number of affordable units, but in no event so as to allow more than 40 dwelling units overall.

6.10 Inclusionary Housing

Note: §6.10 was adopted under Article 25 at the 2003 Annual Town Meeting.

6.10.1 Purpose

The purpose of this By-Law is to encourage the expansion and upgrade of the Town's affordable housing stock, 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 Belmont residents; and to increase the production of affordable housing units to meet existing and anticipated employment needs within the Town.

6.10.2 Definitions

1. Accessible: When used with respect to the design, construction, or alteration of an individual dwelling unit, means that the unit is located on an accessible route and when designed, constructed, altered or adapted can be approached, entered, and used by individuals with physical handicaps.
2. Affordable Housing Trust Fund: An account established and operated for the exclusive purpose of creating or preserving affordable housing in the Town of Belmont.
 - a. The Affordable Housing Trust Fund may be used for the following purposes, including but not limited to, the purchase and improvement of land, the purchase of housing units or the development of new and/or rehabilitated housing units for purchase or rental by Qualified Affordable Housing Purchasers or Tenants or to preserve existing affordable housing. Expenditures from the Affordable Housing Trust Fund shall be authorized by a majority vote of the Board of Selectmen.
3. Affordable Housing Unit: A housing unit that by Deed Restriction is and will remain:

t will result in an Annual Shelter

Cost of not more than thirty percent (30%) of the annual income of a Qualified Affordable Housing Unit Purchaser; or

- b. available for rental and rented at an annual rent, including all mandatory or unavoidable fees, that will result in an Annual Shelter Cost of not more than thirty percent (30%) of the annual income of a Qualified Affordable Housing Unit Tenant, not including any housing unit rented to a tenant receiving rental assistance pursuant to a state or federal rental assistance program.

4. Annual Shelter Cost:

- a. For owners, the aggregate of annual charges for debt service on a mortgage (assuming a 10% down payment), real estate taxes, homeowner's insurance, and condominium fees if applicable.
- b. For tenants, the aggregate of annual charges for rent, utilities (except telephone) and renter's insurance.

5. Belmont Resident: a Belmont Resident is:

- a. an individual or family maintaining a primary residence within the Town of Belmont; or
- b. an individual who is employed at least 30 hours per week within the Town of Belmont; or
- c. a parent or guardian with children attending the Belmont Public Schools; or
- d. a person who, within the fifteen years immediately preceding application for a Belmont affordable housing unit, actually attended the Belmont Public Schools.

6. Deed Restriction: A provision, acceptable in form and substance to the Town of Belmont, in a deed to real property that runs with the land in perpetuity or for the

longest period of time allowed by law, so as to be binding on and enforceable against any person claiming an interest in the property. Any restriction created under this By-Law shall survive any bankruptcy, insolvency, or other action, and shall not be subject to nullification for any reason.

7. Housing Unit: A dwelling unit or unit within a senior or assisted living facility.

8. Qualified Affordable Housing Unit Purchaser or Tenant: A household with total annual income that does not exceed the following percentages of the median income of households in the Boston Standard Metropolitan Statistical Area, adjusted for household size, as determined annually by the United States Department of Housing and Urban Development (as amended):

- a. For a purchaser of a single family home: eighty percent (80%);
- b. For a purchaser of a condominium unit: eighty percent (80%)
- c. For a tenant in a rental unit: eighty percent (80%)

6.10.3 Applicability

This By-Law shall apply to all residential developments that involve the creation of seven (7) or more housing units. Developments may not be segmented to avoid compliance with this By-Law.

6.10.4 Vested Rights

This By-Law does not apply to any development for which a complete application for Design & Site Plan Review has been submitted to the Planning Board on or before March 10, 2002.

6.10.5 Affordable Housing Corporations

This By-Law does not apply to a limited profit, not-for-profit corporation or town agency, engaged in providing affordable housing pursuant to Massachusetts General Laws (MGL) Chapter 40B.

6.10.6 Requirements

1. In any residential development subject to this By-Law, the seventh housing unit and every third unit thereafter shall be an affordable housing unit; except that beginning with the 22nd unit, that 22nd unit and every fourth unit thereafter shall be an affordable housing unit. Nothing in this section shall preclude a developer from providing more affordable housing units than required under the provisions of this By-Law.

2. The Zoning Board of Appeals, in its discretion, may allow a developer of non-rental housing units to make a cash payment to the Town through its Affordable Housing Trust Fund for each affordable unit required by §6.10.6.1. The cash payment, or equivalent value in land or buildings, shall be equal to the difference between the fair market value for a typical market-rate housing unit in the development subject to this By-Law as determined by the Board and the price of an affordable housing unit for a household at 80% of median income, as provided in Section 6.10.2(8), for a household size of 1.49 persons per bedroom rounded to the nearest whole person.

6.10.7 General Provisions:

1. The Board of Selectmen shall be charged with administering this By-Law and shall promulgate Rules and Regulations to implement its provisions.

2. Affordable housing units shall be dispersed throughout the building(s) and shall be comparable to market-rate housing units in terms of location, quality and character, room size, bedroom distribution, and external appearance.

3. The Zoning Board of Appeals, in its discretion, may require the provision of an accessible unit(s) in any project, not to exceed 15% of the total number of units, and may designate when the unit(s) shall be provided during the construction process.

4. The Zoning Board of Appeals may allow or require affordable housing units to be provided at an alternative site in Belmont suitable for residential use. Off-site housing

units shall be comparable in all respects to the market-rate housing units being created and equal to the number of units otherwise required.

5. The selection of Qualified Affordable Housing Unit Purchasers or Tenants shall be pursuant to Rules and Regulations promulgated by the Board of Selectmen.

a. The selection process shall include a plan for marketing of the affordable housing units created under this By-Law. The duration and design of this plan shall reasonably inform all those seeking affordable housing, both within and outside the Town, of the availability of such units.

b. To the extent practicable, Belmont residents shall be given preference for 70 percent of the affordable housing units created under this By-Law.

c. Developers may sell affordable for-sale units to the Town of Belmont, the Belmont Housing Trust, the Belmont Housing Authority, or to a private nonprofit entity serving Belmont for the purpose of providing affordable housing opportunities, in order that such entity carry out the steps needed to market the affordable housing units and manage the choice of buyers.

6.10.8 Timing of Construction:

1. Occupancy permits for any market-rate housing unit or nonresidential space shall be

issued at an equal ratio of occupancy permits for required affordable housing units or housing payments to the entire project.

2. All documents necessary to ensure compliance with this By-Law shall be subject to the review and approval of the Zoning Boards of Appeals and Town Counsel. Such documents shall be executed prior to and as a condition of the issuance of any Certificate of Occupancy.

6.10.9 Severability, Conflict with Other By-Laws:

1. To the extent that a conflict exists between this By-Law and other By-Laws of the Town of Belmont, the more restrictive provisions shall apply.

2. If a court of competent jurisdiction holds any provision of this By-Law invalid, the remainder of the By-Law shall not be affected thereby. The invalidity of any section or sections, or parts of any section or sections, of this By-Law shall not affect the validity of the remaining sections or parts of sections or the other By-Laws of the Town of Belmont.

Town of Belmont Zoning Bylaws, Section 6.10 (January 20, 2004)

6.10 Inclusionary Housing Note: §6.10 was adopted under Article 25 at the 2003 Annual Town Meeting. 6.10.1 Purpose The purpose of this By-Law is to encourage the expansion and upgrade of the Town's affordable housing stock, 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 Belmont residents; and to increase the production of affordable housing units to meet existing and anticipated employment needs within the Town.

Note: Survey received from Belmont on 3/23/05:

Does the municipality offer a "density bonus" in exchange for designation of affordable units?

Marked: "Yes - For public building conversions and cluster."

What year was the inclusionary/incentive provision adopted?

2003 Town of Belmont Zoning Bylaws, Section 6.10 (January 20, 2004)

6.10 Inclusionary Housing Note: §6.10 was adopted under Article 25 at the 2003 Annual Town Meeting.

Have affordable units been developed through this zoning mechanism?

No Email from Mr. Higgins, Town Planner, 6/16/04:

"It was just adopted in November of 2003. There have been no applications submitted to date."

Berkley

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

No

What year was the inclusionary/incentive provision adopted?

Have affordable units been developed through this zoning mechanism?

Berlin

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

Yes 730 INCLUSION OF AFFORDABLE HOUSING

Purpose and Intent

The purpose of this Bylaw is to increase the supply of housing in the Town of Berlin that is available to and affordable by low income and moderate income households who might otherwise have difficulty in finding homes in Berlin. It is to ensure that such housing is affordable over the long-term and provided in accordance with the requirements of Massachusetts General Law Chapter 40B and its implementing regulations, the Berlin Comprehensive Permit Policy, the Berlin Master Plan and the programs of the Berlin Housing Partnership.

Accordingly, the provisions of the Section are designed to: (1) increase the supply of affordable rental and ownership housing in the Town of Berlin, (2) exceed the 10% affordable housing threshold established by the Commonwealth in M.G.L. Chapter 40-B, Section 20-23, (3) encourage a greater diversity and distribution of housing to meet the needs of families and individuals at all income levels, and (4) prevent the displacement of Berlin residents.

Definitions

1. AFFORDABLE HOUSING UNIT (AHU) - A dwelling unit available at a cost of no more than 30% of gross household income of those households at or below 80% of the Boston MSA median income as reported by the U.S. Department of Housing and Urban Development, including units listed under MGL Chapter 40-B and the Commonwealth's Local Initiative Program.

2. MEDIAN INCOME - The median income, adjusted for household size, for the Boston Metropolitan Statistical Area published by or calculated from regulations promulgated by the United States Department of Housing and Urban Development or any successor federal or state program.

3. INCOME, LOW OR MODERATE -

Low income - households making 50% of the median income of the Boston MSA

Moderate income - households making 80% of the median income of the Boston MSA

4. PROJECT -- Any residential development including housing created both by new construction or remodeling and conversion of an obsolete or unused building or other structure from its original or more recent use to an alternate use, including those set forth in the section entitled "applicability." Where the project is a senior residential development as set forth below, the term "dwelling unit" shall be construed to mean "units within senior residential developments".

Applicability

In all zoning districts, the provisions of this bylaw shall apply to the following uses:

- a. any project that results in a net increase of six or more dwelling units, whether by new construction or by the alteration, expansion, reconstruction or change of existing residential or non-residential space; and
- b. any subdivision of land for development of six or more dwelling units; and
- c. any senior residential development that includes six or more senior residential units and accompanying services

Provision of Affordable Units

(1) The development of any project as defined in this paragraph will require the granting of a special permit from the Planning Board.

(2) As a condition for granting any special permit hereunder, applicants shall contribute to the Town's stock of affordable units in accordance with the following requirements:

- a. For projects resulting in a net increase of six or more dwelling units, the applicant shall be required to set aside a minimum of fifteen percent (15%) of the net increase as affordable units, and a minimum of fifteen (15%) of the total number of bedrooms provided as affordable housing.
- b. Fractions: If when applying the percentage to the total number of units to determine the number of affordable units, the resulting number of affordable units includes a fraction of a unit, this fraction, if one-half (1/2) or more shall be rounded up to the next whole number. If the resulting number of affordable units includes a fraction of a unit less than one-half, the equivalent cash value shall be paid to the Town to be used in the pursuit of increasing the Town's affordable housing supply.
- c. Sale, lease or rental of units to low and moderate income households: Units set aside for sale, lease or rental to low and moderate-income households shall be restricted in perpetuity for occupancy by qualified households which meet the definition of "low" and "moderate" income set forth in this bylaw.
- d. Distribution of affordability for rental and ownership units: In developments which are required to include fewer than three (3) affordable units all units shall serve moderate-income households.

In developments which are required to include exactly three (3) affordable units, one (1) affordable unit shall serve a low-income household and two (2) affordable units shall serve moderate income households.

In developments which are required to include more than three (3) affordable units, the units shall be distributed as follows:

25% shall serve low-income households

75% shall serve moderate income households

e. Relationship to the State's affordable housing inventory: It is intended that the affordable low and moderate-income housing units that result from this bylaw be considered as Local Initiative Units in compliance with the requirements of the Commonwealth of Massachusetts Department of Housing and Community Development and or count as low or moderate-income housing units pursuant to MGL Chapter 40-B, 20-23.

f. Relationship to public funding programs: Developers may participate in public subsidy programs and still meet the requirements of this Section. Such participation will be subject to the approval of the subsidizing agency and to the unit price limitations of the funding program, as well as those required by this Section. In case of conflicting price limitations, the lower price requirement shall prevail.

Standards

Projects containing affordable units shall meet the following standards:

a. Projects shall not be segmented or phased to avoid compliance with these provisions.

b. Affordable units shall be dispersed throughout the project so as to ensure a true mix of market-rate and affordable housing.

c. Affordable units shall conform to the general appearance of residences in the area and/or the project. Affordable units must contain at least 75% of the average floor area of the market rate units.

d. All affordable housing units created under this Bylaw shall be no less accessible to public amenities, such as open space, as the market-rate units.

e. The construction of the affordable units will be provided coincident with 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 units (% built)/Affordable Housing Units (% built)

Up to 30%/None Required

30% to 50%/At least 30%

51% to 75%/At least 75%

76% or more/100%

f. Preservation of Affordability; Restrictions on Resale:

Each affordable unit created in accordance with this Bylaw 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 in perpetuity. The resale controls shall be established through a deed restriction, acceptable to the Massachusetts Division of Housing and Community Development and the Berlin Housing Partnership, and recorded at Worcester County Registry of Deeds or the Land Court. Covenants and other documents necessary to ensure compliance with this section shall be executed and, if applicable, recorded prior to and as a condition of the issuance of any building permit or certificate of occupancy, as the Zoning Board of Appeals shall deem appropriate.

Maximum rental price: Rents for the affordable units, including utilities shall not exceed 30% of the targeted annual gross household income.

Maximum sales price: Housing costs, including monthly housing payments, principal and interest payments, and insurance, shall not exceed 30% of the targeted gross household income.

Resale prices: Subsequent resale prices shall be determined in a manner consistent with the initial pricing of the affordable housing unit. The resale price will be established based on a discounted rate, which is the percentage of the median income for which the unit was originally sold. The method of resale price calculation shall be included as part of the deed restriction. This percentage may be increased or decreased by up to five per cent (5%) at the time of resale, in order to assure that the target income groups' ability to purchase will be kept in line with the unit's market appreciation and to provide a proper return on equity to the seller.

g. Marketing Plan

The affordable units must be rented or sold using a plan for marketing which has been reviewed and approved by the Berlin Housing Partnership and the Berlin Planning Board.

h. Preference for Berlin residents and persons employed within the Town of Berlin: Unless otherwise prohibited by a federal or state agency under a financing or other subsidy program, not less than fifty per cent (50%) of the affordable units shall be initially offered to current residents of the Town of Berlin who qualify under the income guidelines and who have resided in the town for a minimum of five years, to persons employed within the Town of Berlin for at least five (5) years, and to persons who, although not currently residents of the town, have previously resided in the Town of Berlin for a minimum of five years: The town may establish a system of priorities for selecting buyers or renters, in accordance with Affordable Housing Guidelines issued by the Berlin Housing Partnership.

i. Ensuring that buyers are income eligible: Purchasers and would be purchasers and renters are required to submit to the Berlin Housing Partnership copies of their last three year's tax returns and certify in writing that their income does not exceed eligibility

guidelines.

Procedures

All projects shall comply with the following procedures as applicable:

- a. Pre-Application Meeting: The applicant shall convene a pre-application meeting with the Berlin Housing Partnership to discuss the project proposal and affordable housing requirements.
- b. Submission of Affordable Housing Plan: The applicant shall fill out and submit an Affordable Housing Plan form to the Berlin Housing Partnership prior to making an application for a Special Permit. This form requires the following information: project units by location, square footage, unit types, number and types of rooms, and location of and number of affordable units. Specific floor plans shall be included with this submission.
- c. Planning Board Application: The applicant shall make a formal application for a special permit to the Berlin Planning Board
- d. Housing Partnership Review: The housing partnership shall, in the next regularly scheduled meeting after necessary public notice, review the Affordable Housing Plan and prepare a recommendation to the Planning Board
- e. Planning Board Review: The Planning Board shall meet to hear the special permit application. The Planning Board decision may require modifications, conditions, and safeguards, including documentation regarding affordability. The Board shall explain any deviation from the Housing Partnership recommendations in writing in its decision.
- f. Revised Affordable Housing Plan: As needed to secure Planning Board approval, a revised Affordable Housing Plan may be submitted to the Planning Board. No building permit shall be issued until the applicant submits proof that the special permit decision of the Planning Board has been recorded and that a final approval letter for the Affordable Housing Plan has been issued.

Enforcement

- a. Legal restrictions: Affordable units shall be rented or sold subject to deed covenants, contractual agreements, and/or other mechanisms restricting the use and occupancy, rent level, and sales prices of such units to assure their affordability. All restrictive instruments shall be subject to review and approval by the Berlin Housing Partnership.
- b. The Berlin Housing Partnership shall maintain the Affordable Housing inventory, to ensure compliance with approved plans.
- c. The Berlin Housing Partnership or a designated 501(c)(3) organization assigned by the Town of Berlin will be the authority that will monitor, oversee and administer the details for all resale of any affordable units created under this Bylaw.

**Webmasters Note: The previous section, 730, has been added as per an update approved at a town meeting held on 10/20/03.

[Town of Berlin Zoning Bylaws - revised through 2004] bylaws obtained from ordinance.com

What year was the inclusionary/incentive provision adopted?

2003 Planning Board Chairman Timothy Wheeler said (1/4/05) that the Inclusionary Housing Bylaw was just adopted in October 2003.

Have affordable units been developed through this zoning mechanism?

No Planning Board Chairman Timothy Wheeler said (1/4/05) that the Inclusionary Housing Bylaw was adopted in October 2003 and has not been used yet. Wheeler also commented that since under Berlin's Zoning, multiple dwellings as of right are restricted to 12 units, developers will likely use the State's 40B process to gain more units.

Beverly

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

Yes According to Tina Cassidy, Planner City of Beverly, the City of Beverly is presently drafting inclusionary provisions.

On the survey received from Beverly on 3/28/05, the following answers were marked:

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

Yes

Does the municipality offer a "density bonus" in exchange for designation of affordable units?

No

What year was the inclusionary/incentive provision adopted?

1988

Have affordable units been developed through this zoning mechanism?

No

There does appear to be an inclusionary section as part of the reuse of municipal buildings:

E. Residential Reuse of Existing Public Buildings

1. Purpose - To provide for the residential reuse of existing public buildings.
2. Use Regulation - In any zoning district, the Board of Aldermen may permit by Special Permit the reuse of an existing public building, as hereinafter defined, for residential purposes, provided that twenty-five percent (25%) of such allowed units are set aside for low or moderate income tenants or owners as hereinafter defined. In the case of units to be owned by low or moderate income individuals, such units shall contain deed restrictions indicating that units shall sell for 75% of the average fair market value of units in the Beverly area acceptable to the City of Beverly Planning Department to insure low or moderate income use in perpetuity.
3. Public Building Defined - For purposes of this section, public building shall be defined as any building owned and occupied or formally occupied by the City of Beverly Commonwealth of Massachusetts or the United States of America or any of their departments, authorities, or agencies.
4. Low or Moderate Income Person - For purposes of this section, low or moderate income persons shall be defined as those persons falling within the guidelines of low or moderate income determined by the United States Department of Housing and Urban Development and the Commonwealth of Massachusetts Executive Office of Communities and Development as certified by the Beverly Housing Authority, which shall be responsible for providing lists of those eligible for purchase or renting of the units involved.
5. Parking - Parking shall be provided on-site for a minimum of one and one-half spaces per unit.
6. Traffic - The applicant shall be responsible for providing an independent professional traffic study showing the impact of the proposed project on the surrounding neighborhood.
7. The Board of Aldermen shall determine that there exist adequate public services for the proposed project including, but not limited to, adequate water pressure and supply, adequate sewer availability, and adequate school capacity in the area.
8. Procedure - An application shall be filed and processed in accordance with Section 29-27 of this Ordinance, unless otherwise provided herein. Three (3) copies of a site plan prepared in accordance with the specifications of the City of Beverly (Planning Board Rules and Regulations) shall be submitted showing the proposed lot layout, grading, drainage, buildings, uses, off-street parking areas, open space, the handling of water supply and sewerage, and all such other information as the Board may require. The Board of Aldermen shall transmit a copy thereof to the Planning Board and the Design Review Board for their review and recommendation. The Board of Aldermen shall not take final action on such application until it has received a report thereon from the Planning Board and the Design Review Board within thirty-five (35) days or until said Planning Board and Design Review Board have allowed thirty-five (35) days to elapse without submission of a report.
9. The provisions of this Section are optional, and nothing herein shall require the Board of Aldermen to allow a Special Permit where it finds that the general area would be adversely affected by such use.

What year was the inclusionary/incentive provision adopted?

1988 On the survey received from Beverly on 3/28/05, the following answers were marked:

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

Yes

Does the municipality offer a "density bonus" in exchange for designation of affordable units?

No

What year was the inclusionary/incentive provision adopted?

1988

Have affordable units been developed through this zoning mechanism?

No

Have affordable units been developed through this zoning mechanism?

No On the survey received from Beverly on 3/28/05, the following answers were marked:

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

Yes

Does the municipality offer a "density bonus" in exchange for designation of affordable units?

No

What year was the inclusionary/incentive provision adopted?

1988

Have affordable units been developed through this zoning mechanism?

No

Billerica

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

Yes On ordinance.com, under definitions:

AFFORDABLE HOUSING UNIT . A dwelling unit available at a cost of no more than 30% of gross household income of households at or below 80% of the Lowell SMSA median income as reported by the U. S. Department of Housing and Urban Development and for which the town obtains credit with the Commonwealth as affordable housing as required under M.G.L.C 40B sect.20-23 inclusive ("The Comprehensive Permit Law")

AFFORDABLE HOUSING UNIT PURCHASER OR TENANT . An individual or family with household incomes that do not exceed 80% of the median income, with adjustments for

The provisions for inclusionary/incentive zoning are found in several sections:

4. GARDEN STYLE APARTMENT RESIDENCE DISTRICT

DENSITY INCENTIVE

In addition to the density allowed under this subsection, densities may be increased by 20% if at least half of all additional units created are affordable as defined by Section 2 of this by-law under the entry "Affordable Housing Unit". (As an example: If you can build 10 dwelling units by right or special permit then you could build twelve (12) if one (1) of the additional two (2) units is affordable. In cases where 10% affordable is required you would end up providing 2 affordable units and 10 market units).

**Webmasters Note: The previous paragraph has been added as per an update approved at a town meeting held on 5/6/03.

AFFORDABLE HOUSING COMPONENT

Ten percent of the units created under these provisions shall be affordable as defined by Section 2. of this by-law under the entry "Affordable Housing Unit". The Billerica Housing Authority is exempt from this requirement because the units under their control are categorically affordable.

**Webmasters Note: The previous paragraph has been amended as per an update approved at a town meeting held on 5/6/03.

I. Affordable Housing Component

The SPGA may consider the provision of affordable housing (see section 2.2.1) as a criterion for the granting of approval under this by law. Prior to submission of an application for a special permit the applicant shall meet with the Billerica Housing Partnership Committee (BHPC) to discuss provision of affordable housing. A written recommendation from the BHPC shall be required as part of the application. The goal is to include 10% of the proposed units as affordable. The SPGA, in consultation with the BHPC, may modify this goal if it is in the best interest of the town.

4. TOWNHOUSE OVERLAY DISTRICT

DENSITY INCENTIVE

In addition to the density allowed under this subsection, densities may be increased by 20% if at least half of all additional units created are affordable as defined by Section 2 of this by-law under the entry "Affordable Housing Unit". (As an example: If you can build 10 dwelling units by right or special permit then you could build twelve (12) if one (1) of the additional two (2) units is affordable. In cases where 10% affordable is required you would end up providing 2 affordable units and 10 market units).

**Webmasters Note: The previous paragraph has been added as per an update approved at a town meeting held on 5/6/03.

AFFORDABLE HOUSING COMPONENT

Ten percent of the units created under these provisions shall be affordable as defined by Section 2. of this by-law under the entry "Affordable Housing Unit". The Billerica Housing Authority is exempt from this requirement because the units under their control are categorically affordable.

**Webmasters Note: The previous paragraph has been amended as per an update approved at a town meeting held on 5/6/03.

5. ELDERLY HOUSING OVERLAY DISTRICT

DENSITY INCENTIVE

In addition to the density allowed under this subsection, densities may be increased by 20% if at least half of all additional units created are affordable as defined by Section 2 of this by-law under the entry "Affordable Housing Unit". (As an example: If you can build 10 dwelling units by right or special permit then you could build twelve (12) if one (1) of the additional two (2) units is affordable. In cases where 10% affordable is required you would end up providing 2 affordable units and 10 market units).

**Webmasters Note: The previous paragraph has been added as per an update approved at a town meeting held on 5/6/03.

SECTION 7. DIMENSIONAL REGULATIONS B. IN GENERAL

AFFORDABLE HOUSING LOT REDUCTION

The purpose of this by law is to allow the construction of single family dwelling units by special permit from the SPGA Board of Appeals on lots that do not meet the current lot dimensional requirements of this by law. Dwellings approved under this by law shall be affordable to families and shall be compatible with prevailing residential densities in the neighborhood where they are to be built.

Definitions

AFFORDABLE HOUSING UNIT . See section 2.2.1

AFFORDABLE HOUSING UNIT PURCHASER OR TENANT . See section 2.2.2

Applicability

This section applies to lots located in the Village, Neighborhood or Rural Residential Districts.

Requirements for Issuance of a Special Permit

All of the following shall be met as a prerequisite for approval. Failure to do so shall result in the outright invalidation of these exceptions. There shall be no waiving any requirement.

1. The lot area in all districts shall be at least 50% of the minimum area required under the current zoning. 15,000 square feet minimum in the Village Residence District; 20,000 square feet minimum in Neighborhood Residence District and 25,000 square feet minimum in Rural Residence District.
2. The frontage shall be at least 75 feet.
3. The applicant shall demonstrate that the majority of lots developed with single family dwellings within 300 feet of the subject property lines have less area than the minimum required under current zoning. The applicant shall submit a map of all lots within the 300 foot perimeter of the subject lot and the existing lot areas. Undeveloped parcels and non single family dwellings shall not be counted.
4. All single family dwellings built under this provision shall be affordable as defined elsewhere in this section. In those cases where more than one lot is created under the provisions of the subdivision control law, all lots created shall be utilized as affordable unless a particular lot.

What year was the inclusionary/incentive provision adopted?

4. GARDEN STYLE APARTMENT RESIDENCE DISTRICT

DENSITY INCENTIVE

In addition to the density allowed under this subsection, densities may be increased by 20% if at least half of all additional units created are affordable as defined by Section 2 of this by-law under the entry "Affordable Housing Unit". (As an example: If you can build 10 dwelling units by right or special permit then you could build twelve (12) if one (1) of the additional two (2) units is affordable. In cases where 10% affordable is required you would end up providing 2 affordable units and 10 market units).

**Webmasters Note: The previous paragraph has been added as per an update approved at a town meeting held on 5/6/03.

AFFORDABLE HOUSING COMPONENT

Ten percent of the units created under these provisions shall be affordable as defined by Section 2. of this by-law under the entry "Affordable Housing Unit". The Billerica Housing Authority is exempt from this requirement because the units under their control are categorically affordable.

**Webmasters Note: The previous paragraph has been amended as per an update approved at a town meeting held on 5/6/03.

I. Affordable Housing Component

The SPGA may consider the provision of affordable housing (see section 2.2.1) as a criterion for the granting of approval under this by law. Prior to submission of an application for a special permit the applicant shall meet with the Billerica Housing Partnership Committee (BHPC) to discuss provision of affordable housing. A written recommendation from the BHPC shall be required as part of the application. The goal is to include 10% of the proposed units as affordable. The SPGA, in consultation with the BHPC, may modify this goal if it is in the best interest of the town.

4. TOWNHOUSE OVERLAY DISTRICT

DENSITY INCENTIVE

In addition to the density allowed under this subsection, densities may be increased by 20% if at least half of all additional units created are affordable as defined by Section 2 of this by-law under the entry "Affordable Housing Unit". (As an example: If you can build 10 dwelling units by right or special permit then you could build twelve (12) if one (1) of the additional two (2) units is affordable. In cases where 10% affordable is required you would end up providing 2 affordable units and 10 market units).

**Webmasters Note: The previous paragraph has been added as per an update approved at a town meeting held on 5/6/03.

AFFORDABLE HOUSING COMPONENT

Ten percent of the units created under these provisions shall be affordable as defined by Section 2. of this by-law under the entry "Affordable Housing Unit". The Billerica Housing Authority is exempt from this requirement because the units under their control are categorically affordable.

**Webmasters Note: The previous paragraph has been amended as per an update approved at a town meeting held on 5/6/03.

5. ELDERLY HOUSING OVERLAY DISTRICT

DENSITY INCENTIVE

In addition to the density allowed under this subsection, densities may be increased by 20% if at least half of all additional units created are affordable as defined by Section 2 of this by-law under the entry "Affordable Housing Unit". (As an example: If you can build 10 dwelling units by right or special permit then you could build twelve (12) if one (1) of the additional two (2) units is affordable. In cases where 10% affordable is required you would end up providing 2 affordable units and 10 market units).

**Webmasters Note: The previous paragraph has been added as per an update approved at a town meeting held on 5/6/03.

Have affordable units been developed through this zoning mechanism?

No Survey received from Billerica on 3/21/05 marked "no" to the question "Have affordable units been developed through this zoning mechanism?"

Blackstone**Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?**

No Survey received from Balckston on 5/17/05, completed by Philip Herr.

Does the zoning bylaw include any mandates or incentives for development of affordable units?

"To be voted on May 31 [2005] @ ATM"

Does the municipality offer a "density bonus" in exchange for designation of affordable units?

"To be voted on May 31 @ ATM"

What year was the inclusionary/incentive provision adopted?

"Pending"

Have affordable units been developed through this zoning mechanism?

"No"

What year was the inclusionary/incentive provision adopted?

Have affordable units been developed through this zoning mechanism?

Bolton

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

Yes 2.5.9.2 Definitions
1. Affordable Housing Unit (AHU). A dwelling unit available at a cost of no more than 30% of gross household income of households at or below 80% of The Metropolitan Statistical Area (MAS) which includes the Town of Bolton (the Bolton MSA) median income as reported by the U.S. Department of Housing and Urban Development, including units listed under MGL 40B sections 20-24 and the Commonwealth's Local Initiative Program.
2. Qualified affordable housing unit purchaser. An individual or family with household incomes that do 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).

What follows is the town's entire inclusionary housing by-law.

2.5.9 INCLUSIONARY HOUSING

2.5.9.1 Purpose and Intent

The purpose of this Bylaw is to outline and implement a coherent set of policies and objectives for the development of affordable housing in compliance with the Bolton Affordable Housing Plan, MGL c. 40B sec. 20-23 and ongoing programs within the Town of Bolton to promote a reasonable percentage of housing that is affordable to moderate income buyers. It is intended that the Affordable Housing Units (AHU) that result from this Bylaw be considered as Local Initiative Program (LIP) dwelling units in compliance with the requirements for the same as specified by the Department of Community Affairs, Division of Housing and Community Development and that said units count toward the Town's requirements under MGL c. 40B, sec. 20-23.

2.5.9.2 Definitions

1. Affordable Housing Unit (AHU). A dwelling unit available at a cost of no more than 30% of gross household income of households at or below 80% of The Metropolitan Statistical Area (MAS) which includes the Town of Bolton (the Bolton MSA) median income as reported by the U.S. Department of Housing and Urban Development, including units listed under MGL 40B sections 20-24 and the Commonwealth's Local Initiative Program.
2. Qualified affordable housing unit purchaser. An individual or family with household incomes that do 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).
3. Special Permit Granting Authority (SPGA). The SPGA shall either be the Planning Board (if the project is a regular Major Residential Subdivision, FOSPRD or regular development on a combination of ANR and/or Backland lots (and the affordable units considered as Local Initiative Program (LIP) dwelling units) or the Zoning Board of Appeals (ZBA) if the project is brought forth as a "friendly 40B" project and is required to follow Comprehensive Permit guidelines.
4. Off-Site. Off-site shall mean fully buildable lots not contiguous to the primary development as of the date of transfer or application, whichever is applicable, located within the Town of Bolton.
5. Rehabilitated. Pre-existing legal housing stock (no non-conforming pre-existing structures shall be allowed in this definition) located in Bolton that is not under affordable guidelines that has been renovated to current State Building Codes and Bolton Board of Health Rules and Regulations as may be required for the purpose of use as an Affordable Housing Unit.

2.5.9.3 Applicability

1. Division of Land. This Bylaw shall apply to the division of contiguous land held in single or common ownership into eight (8) or more lots. The conditions of this Bylaw will apply to the special permit required and issued for land divisions under MGL c. 40A sec. 9 as well as for "conventional" or "grid" divisions allowed by MGL c. 41 sec. 81-L and sec. 81-U, including those divisions of land that do not require subdivision approval. This bylaw therefore applies to Section 2.3.6 (Farmland and Open Space Planned Residential Development) and Section 2.3.7 (Major Residential Development) of the Zoning Bylaws.
2. Multiple Dwelling Units. This Bylaw shall apply to the constructions of eight (8) or more dwelling units, whether on one or more contiguous parcels, and shall require a special permit from the Board of Appeals.
3. The provisions of Section 2.5.9.3(2) shall apply to the construction of eight (8) or more dwelling units on individual lots if said eight (8) or more lots held in single or common ownership.
4. To prevent the intentional segmentation of projects designated to avoid the requirements of this Bylaw, parcels held in single or common ownership and are subsequently divided into eight (8) or more lots cannot later defeat the requirements of this Bylaw.

2.5.9.4 Mandatory Provision of Affordable Units

The SPGA, as a condition of approval of any development referred to in Sections 2.5.9.3, require that the applicant for special permit approval comply with the obligation to provide affordable housing pursuant to this Bylaw and more fully described in Section 2.5.9.5.

2.5.9.5 Provision of Affordable Units

The SPGA shall deny any application for a special permit for development if the Applicant for special permit approval does not comply, at a minimum, with the following requirements for affordable units:

1. The maximum housing cost for affordable units created under this Bylaw is as established by the Commonwealth's Division of Housing and Community Development or as revised by the Town.

2. One (1) in every eight (8) buildable lots in a division of land or one (1) in every eight (8) units in a multiple unit development subject to this Bylaw shall be established as AHU's in any one or combination of methods provided below. Fractions of a lot or dwelling unit will not be rounded up to the next whole number. For reference, the following schedule is provided for allocating affordable units given a particular range of total lots in a subdivision or total units in a multiple unit development. This schedule is given for reference:

Total Lots / Units Affordable Lots / Units Established

8 to 15 1

16 to 23 2

24 to 31 3

32 to 39 4

40 to 47 5

48 to 55 6

56 to 63 7

64 to 71 8

and so on...

3. The AHU(s) shall be constructed or rehabilitated on the locus subject to the special permit.

4. The AHU(s) constructed or rehabilitated on a locus different than the one subject to the special permit (see Section 2.5.9.9).

5. An equivalent fees-in-lieu of payment and/or donation of land in fee simple may be made (See Section 2.5.9.12, below).

The applicant may offer, and the SPGA may accept, any combination of the Section 2.5.9.5.(3)-(5) 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 Bylaw.

2.5.9.6 Provisions Applicable to AHU's On- and Off-Site

1. Siting of AHU's - All affordable units created under this Bylaw shall be situated within the development 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. 10/6/04 95

2.5.9.7 Local Preference

The SPGA shall require the applicant to comply with local preference requirements, if any, as established by the Board of Selectmen and/or the Bolton Affordable Housing Partnership.

2.5.9.8 Marketing Plan for Affordable Units

Applicants under this Bylaw shall submit a marketing plan or other method approved by the SPGA, to the SPGA for approval, 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.

2.5.9.9 Provision of Affordable Housing Units Off-Site

As an alternative to the requirements of Section 2.5.9.5(2)-(3), and subject to the approval of the SPGA, an applicant subject to the Bylaw may develop, construct or otherwise provide affordable units equivalent to those required by Section 2.5.9.5(2)-(3) on an alternate site in the Town Of Bolton and approved by SPGA. All requirements of this Bylaw 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. 10/6/04 96

2.5.9.10 Maximum Incomes and Selling Prices: Initial Sale To ensure that only eligible households purchase AHU's, the purchaser of an affordable unit shall be required to submit copies of the last three years' federal and state income tax returns and 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 Bolton Housing Authority or to another authority as determined by the SPGA, that his/her or their family's annual income level does not exceed the maximum level as established by the Commonwealth's Division of Housing and Community Development, and as may be revised from time to time.

The maximum price of the AHU(s) created under this Bylaw is established by DHCD under the Local Initiative Program (LIP)

guidelines in effect at the time the unit(s) is built.

2.5.9.11 Preservation of Affordability; Restrictions on Resale Each affordable unit created in accordance with this Bylaw 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 Worcester County Registry of Deeds or the Land Court, and shall be in force for a period of ninety-nine (99) years.

1. AHU'(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 Bolton at the time of resale.

2. Right of first refusal to purchase - The purchaser of an AHU developed as a result of this Bylaw shall agree to execute a deed rider prepared by the Town, granting, among other things, the Town of Bolton'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.

3. The SPGA shall require, as a condition for special permit approval under this Bylaw, that the deeds to the AHU's contain a restriction that any subsequent renting or leasing of said AHU shall not exceed the maximum rental price as determined by the DHCD for affordability within the Town of Bolton.

4. The SPGA shall require, as a condition for special permit approval under this Bylaw, that the applicant comply with the mandatory set-asides and accompanying deed restrictions on affordability, including the execution of the deed rider noted in this Section 2.5.9.11. The Zoning Enforcement Officer shall not issue a building permit for any affordable unit until the deed restriction is recorded at the Worcester County Registry of Deeds or the Land Court.

5. The Bolton Housing Authority or other 501 (C)(3) fund as determined by the SPGA will be the authority that will monitor, oversee and administer the details for all resale of any affordable units created under this Bylaw.

2.5.9.12 Donation of Land and/or Fees-in-Lieu of Affordable Housing Unit Provision As an alternative to the requirements of Section 2.5.9.5, and as allowed by law, an applicant may contribute a fee or land to the Bolton Affordable Housing Trust Fund or other 501(C)(3) fund as designated by the SPGA to be used for the development of affordable housing in-lieu of constructing and offering affordable units within the locus of the proposed development or off-site.

1. Calculation of fees-in-lieu of units. The applicant for development subject to this bylaw may pay fees in lieu of the construction or provision of affordable units is determined to be \$200,000 per unit. For example, if the applicant is required to

construct two affordable income units, he/she may opt to pay \$400,000 in lieu of constructing or providing the units.

2. Schedule of fees-in-lieu of payments. Fees in lieu of payments shall be paid according to the schedule set forth in Section 2.5.9.6(3) above.

3. An applicant may offer, and the SPGA, in concert with the Board of Selectmen, may accept, donations of land in fee simple, on or off-site, that the SPGA determines are suitable for the construction of affordable housing units concurrently or in the future. The value of donated land shall be equal to or greater than 115% of the construction or set-aside of affordable units. The SPGA shall require, prior to accepting land as satisfaction of the requirements of this by-law, that the applicant submit two (2) appraisals of the land in question (future values may be taken into account in this appraisal), as well as other data relevant to the

determination of equivalent value. The applicant must also supply certified information that the land to be donated will support the required number of dwelling units per current Bolton Zoning Bylaws, Bolton Board of Health regulations and Bolton Conservation Commission requirements as of the date of transfer (i.e.; the land is buildable).

Researcher obtained information from: Town of Bolton Bylaws, May 2004 at:

http://www.townofbolton.com/pages/BoltonMA_Clerk/Bolton%20Bylaws%20May%202004%20web.pdf

What year was the inclusionary/incentive provision adopted?

2004 An email 11/12/04 from town planner Nat Tipton says "We have adopted an Inclusionary Housing bylaw as of 5/04"

Found in by-law:
Last amended 10/4/04.

Have affordable units been developed through this zoning mechanism?

No Town Planner Nat Tipton wrote in an email on 11/12/04 that "Our inclusionary zoning is only 6 months old and has not resulted in any affordable units yet."

Boxborough

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

No There is no mention of inclusionary housing in the town's by-laws. What follows is the entire section of the town's master plan that addresses inclusionary housing:

TOWN OF BOXBORO

Inclusionary Housing

Background – Documentation of Need for Zoning Amendment

- The Boxboro Master Plan consultants and steering committee recommend a proactive approach to providing affordable housing at a scale suited to the community's

rural character and population.

- Massachusetts statute G.L. c. 40B §20-24 imposes a policy that every community provide 10% of its housing stock as housing accessible to families of low and moderate incomes.
- Town's that have not met this minimum standard are more vulnerable to comprehensive permit projects under the statute. Such projects can proceed with permitting without compliance with many local regulations, especially density.
- The proposed section provides that new development be required to provide a proportionate share of affordable housing so that the existing stock of affordable housing is not diluted by the production of additional market rate housing units.
- A flexible standard is provided so that the required affordable units can be provided on or off the site of proposed market rate housing and could include homeownership or rental units, so long as the Commonwealth's criteria of affordable housing units, as well as local rules and regulations are satisfied.

I

INCLUSIONARY HOUSING BYLAW

1.0 Purpose and Intent

The purpose of this bylaw is to proactively provide for the development of affordable housing in compliance with G.L. c. 40B §20-24, so that the Town's stock of affordable housing is not diluted by the creation of additional market rate units. It is intended that the affordable housing units that result from this bylaw qualify as Local Initiative Units in accordance with the Massachusetts Division of Housing and Community Development guidelines, and therefore units must comply with these guidelines.

2.0 Applicability

This section shall apply to all conventional and open space design subdivisions allowed by M.G.L. c. 41 that create six (6) or more lots, including those divisions of land that do not require subdivision approval. [It is presumed that divisions of land creating less than 6 lots would be rounded down and thus make the calculation of required units 0 and this bylaw inapplicable.]

3.0 Anti-Segmentation

It is the intent of this bylaw to prohibit the subdivision of land or phasing of development to avoid the application of this section. It shall be presumed that land held in common ownership at the time of enactment of this bylaw should be included for the purposes of calculating the number of lots. It shall also be presumed that phased development of land held in common ownership shall be considered in its totality rather than as separate projects. These presumptions are rebuttable only upon credible evidence to the contrary. Where a division of land appears to be phased, a covenant may be placed on the remaining land requiring compliance with this bylaw.

4.0 Mandatory Provision of Affordable Units

The Planning Board shall, as a condition of approval of any development referred to in Sections 3.0 above, require that the applicant comply with the obligation to provide affordable housing pursuant to this bylaw and more fully described in Section 5.0.

5.0 Provision of Affordable Units

The Planning Board shall deny any application for subdivision, open space design development, or ANR endorsement of plans showing six (6) lots or more, or that when considered in relation to other development phases or development on adjacent property in common ownership create six (6) lots or more, that does not provide at least ten (10) percent of the units subject to this bylaw as affordable housing units in any one or combination of methods provided for below:

(a) by constructing, rehabilitating or designating affordable housing unit(s) on the locus subject to the application (see Section 6.0); or

(b) by constructing rehabilitating or designating affordable housing unit(s) on a locus different than the one subject to the application (see Section 7.0);

or

(c) by offer to and acceptance by the Housing Board of a donation of land to the Town or its designee in fee simple, on- or off-site, that the Planning Board in its discretion determines is suitable for the construction of affordable housing units. Where this option is used, said land shall be sufficient to support a number of affordable housing units equal to two (2) times the number of units required by section 6.3.

(d) at the discretion of the Housing Board, by development of a qualifying affordable housing unit on public land through rehabilitation or new construction

(e) any combination of the above requirements (a)-(c) 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 bylaw.

For example, a 18-lot subdivision would require an exaction of 2 affordable housing units, which could be provided by construction of one unit in the proposed subdivision and one rental unit in the town center; or alternatively, a donation of land sufficient for the Town to construct four units of affordable

housing. Flexibility is allowed and encouraged. An 8 lot division would require one affordable unit, as would a 12 lot division.

6.0 Provisions Applicable to Affordable Housing On- and Off-Site

6.1 Siting of affordable units

All affordable units constructed, rehabilitated or designated under this bylaw shall be dispersed throughout the development and/or community and shall, on average, be no less accessible to public amenities, such as open space or services, than the market-rate units.

6.2 Minimum 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. Interior features of affordable units shall include similar amenities. Off-site affordable units shall be integrated with the neighborhood in which they are situated.

6.3 Calculation of number of affordable units

A number of affordable units equal to ten percent (10%) of the total number of units shall be provided. Fractions of units shall be rounded up if the fraction is 0.7 or greater and shall be rounded down if said fraction is less than 0.7.

6.4 Timing of construction or provision of affordable units or lots

Where feasible, 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.

Building Permits for Construction Starts

Market-rate Units (% issued) for Affordable Housing Units

Total # affordable units required

1* 2* 3 4+

Up to 30% None required

30% plus 1 unit 1 25%

50% 1 1 50%

75% 1 75%

90% 1 1 100%

* Fractions of units shall be rounded up. Where only one affordable unit will be constructed, the unit shall be commenced prior to commencement of the unit representing 50% of the number of lots permitted; where two affordable units are required, one shall be commenced prior to commencement of the unit representing 50% of the number of lots permitted and the second shall be constructed prior to receipt of a building permit for the last approved lot.

6.5 Marketing plan for affordable units.

Applicants under this bylaw shall submit a marketing plan to the Planning Board for its approval, which describes how the affordable units will be marketed to potential homebuyers or tenants. This plan shall include a description of the lottery or other process to be used for selecting buyers or tenants. The Housing Board shall develop a sample marketing plan and lottery and copies shall be made available in the Planning Office.

6.6 Local preference.

At the discretion of the Planning Board, up to 70% of the affordable units can be reserved for Boxborough residents. For the purpose of this section "resident" shall be defined as any resident, individual who previously lived in Boxborough for at least two (2) years or child of a Boxborough resident who does not currently live in Town, or employee of the Town of Boxborough. In the event that the applicant is unable to sell or lease the unit to a Boxborough resident s/he may petition the Planning Board for a release of the condition, without need for a public hearing.

7.0 Provision of Affordable Housing Units Off-Site

As an alternative to on-site provision of affordable housing described in Section 6.0, an applicant subject to the bylaw may develop, construct, rehabilitate or dedicate affordable units off-site. All requirements of this bylaw 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 Planning Board, which shall have discretion to approve the appropriateness of a proposed unit to be designated as off-site affordable housing.

8.0 Maximum Incomes and Selling Prices

8.1 Rental Prices and Initial sale

The maximum housing cost for affordable homeownership or rental units created under this bylaw is as established by the Commonwealth's Division of Housing and Community Development, Local Initiative Program.

To ensure that only eligible households purchase affordable housing units, the purchaser of a affordable unit will be required to submit copies of the last three years' federal and state income tax returns and certify, in writing and prior to transfer of title, to the developer of the housing units or developer's agent, and within thirty (30) days prior to transfer of title, to the local housing partnership or other agency as established by the Town, that his/her or their family's annual income level does not exceed the maximum

level as established by the Commonwealth's Division of Housing and Community Development, as may be revised from time to time. Applicants for rental housing shall provide similar documentation.

8.2 Preservation of affordability

Each affordable unit created in accordance with this bylaw shall have limitations governing its rental rates, sale and resale prices. 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 restriction on the property running with the land and shall be perpetual. The Planning Board shall keep affordable housing criteria and guidance documents provided by the Massachusetts Division of Housing and Community Development in addition to any local guidelines that the Planning Board may hereinafter adopt.

The Planning Board shall require, as a condition for approval under this bylaw, that the applicant comply with the mandatory affordable housing provisions and accompanying restrictions on affordability, including the execution of a DHCD Local Initiative Program Regulatory Agreement (for rental and homeownership units) and deed rider (for homeownership units). The Building Inspector shall not issue an occupancy permit for any affordable unit until the deed restriction is recorded.

9.0 Conflict with Other Bylaws

The provisions of this section shall be considered supplemental to other zoning bylaws. To the extent that a conflict exists between this section and others, the more restrictive provisions shall apply.

Researcher obtained information from:

Boxborough Master Plan, January 29, 2002 at: <http://town.boxborough.ma.us/boxborough/cgi-bin/makepage.cgi?frame=/boxborough/documents/MasterPlan.pdf>

When asked in an email about whether the inclusionary zoning suggestions in the master plan have been implemented, Interim Town Planner Amanda Amory said "Again, the Town has a Master Plan Implementation Committee, which meets quarterly. It is on their agenda to address these topics. As you know, Zoning Bylaw changes take time to implement and the Town has had numerous staffing changes in the past two years. The Most Recent Zoning Bylaws, posted on the Web site, were last amended in May 2004."

What year was the inclusionary/incentive provision adopted?

Have affordable units been developed through this zoning mechanism?

Boxford

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

No

What year was the inclusionary/incentive provision adopted?

Have affordable units been developed through this zoning mechanism?

Boylston

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

No

What year was the inclusionary/incentive provision adopted?

Have affordable units been developed through this zoning mechanism?

Braintree

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

No Peter Loppola, Director of Planning and Conservation, said that they "are working on this. We are looking at it. We have reached our 10% under 40B, assuming everything gets built. We want to maintain or enhance that. The best way may be through inclusionary zoning."

What year was the inclusionary/incentive provision adopted?

Have affordable units been developed through this zoning mechanism?

Bridgewater

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

No

What year was the inclusionary/incentive provision adopted?

Have affordable units been developed through this zoning mechanism?

Brockton

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

No Answer via 7/29 fax from Kristine in the Brockton Building Department -- "No".

What year was the inclusionary/incentive provision adopted?

Have affordable units been developed through this zoning mechanism?

Brookline

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

Yes Zoning Bylaw Town of Brookline, Section §4.08 AFFORDABLE HOUSING REQUIREMENTS.

AFFORDABLE HOUSING GUIDELINES are written policies and criteria, recommended by the Housing Advisory Board and adopted by the Planning Board, which supplement and serve to aid in the interpretation of this section. They may be revised from time to time without an amendment to the Zoning Bylaw.

Applicability

In all zoning districts, the provisions of this §4.08 shall apply to the following uses:

- a. any project that results in any net increase of six or more dwelling units, whether by new construction or by the alteration, expansion, reconstruction or change of existing residential or non-residential space; and
- b. any subdivision of land for development of six or more dwelling units; and

c. any life care facility development that includes six or more assisted living units and accompanying services.

PROJECT means any residential or other development, including a cluster development, which results in the construction of new dwelling units, including those set forth in paragraph 3, subparagraph a, b, or c herein. Where the project is a life care facility development, as set forth in paragraph 3, subparagraph c., the term "dwelling unit" shall be construed to mean "assisted living unit".

From ordinance.com:

SECTION 4.40 AFFORDABLE HOUSING REQUIREMENTS

(a) Purpose.

The purpose of this Section is to promote the public welfare by:

- (1) encouraging housing opportunities for people of all income levels;
- (2) increasing the supply of housing that is available to and affordable by low and moderate income people, with emphasis on family housing; and
- (3) preventing the displacement of low-to-moderate income Brookline residents.

(b) Scope.

The provisions of this section shall apply in all zoning districts to all residential developments of six units or more, whether new construction or adaptive reuse. The provisions shall also apply to subdivisions of 10 lots or more seeking special permits or variances for increases in permissible density or intensity of use. Developments may not be segmented to avoid compliance with these provisions. Assisted living units in a life care facility and accompanying services are also subject of the requirements of this section. No provisions of this Section shall substitute for any other provisions of this By-law. The provisions of this Section shall not apply to residential developments for which an application for a building permit had been acted upon by the Building Commissioner and a request for zoning relief with respect thereto had been filed with the Board of Appeals prior to March 19, 1987.

(c) Requirements.

Under the provisions of this Section, developers shall be required to contribute to the Town's stock of housing affordable to low and moderate income people.

- (1) For residential developments of six to fifteen units, the developer may choose to make a cash payment based on the guidelines to be adopted pursuant to Section 4.40(f) hereunder, subject to approval of the Board of Appeals.

Subject to the provisions of this Section, affordable units may be targeted toward any of these three income groups or a combination thereof.

- (2) Otherwise this requirement will be met by setting aside units within the development for people in the following income groups: low income (up to 50% of Boston SMSA median)* moderate income (51-80% of Boston SMSA median)* upper-moderate income (81-100% of Boston SMSA median)*

*Based on HUD figures and periodic revisions.

- (3) Affordable units may be made available either for sale or rent.
- (4) Sales prices, resale prices, initial rents, and rent increases for the affordable units shall be permanently restricted, to the extent legally permissible, to ensure long-term affordability. Standards of affordability will be set and revised from time to time by the Town in accordance with appropriate Federal and State standards.
- (5) Developers will be required to set aside 15% of the units in the development as affordable units, based on the following:
 - (i) Of the affordable units, 25% serve low-income households, 50% serve moderate-income households, and 25% serve upper-moderate-income households.
 - (ii) The bedroom distribution in the affordable units is proportionate to the bedroom distribution in the development as a whole.
 - (iii) Developers utilize available public subsidies and contribute from the sale of market-rate units.

At the discretion of the Board of Appeals, developers may be allowed to set aside a lower percentage of units, but in no case less than 10% of the units, under the following conditions:

- (iv) A higher percentage of units are targeted toward low and/or moderate income households;

(v) A higher percentage of units are multi-bedroom units suitable for families; and/or

(vi) Public subsidies are unavailable or inappropriate.

Conversely, the Board of Appeals may require that a higher proportion of units, but in no case more than 20% of the units, be set aside where

(vii) fewer low and/or moderate units are proposed;

(viii) fewer multi-bedroom units are proposed; and/or

(ix) high levels of subsidy are available.

Nothing in this Section shall preclude a developer from setting aside more than the required number of affordable units or from setting aside additional units for higher but limited income groups.

In determining the total number of affordable units required, a fractional unit of .5 or more shall be regarded as a whole unit. When less than .5 is required, the developer may satisfy his/her obligation by means of the alternative requirements specified in (d).

(6) Affordable units shall be dispersed throughout the building(s) and shall be compatible with and generally comparable to market-rate units in terms of location, quality and character, room size, and external appearance.

(7) Affordability restrictions shall be embodied in applicable deed covenants, contractual agreements, land trust arrangements, and/or other mechanisms to ensure compliance.

(8) The Town may further require, for itself or its designee, an option to purchase or lease affordable units for amounts consistent with this Section. The option shall apply to the initial and any subsequent sale or lease of affordable units.

(9) The Town may require that lessees of affordable units meet income recertification requirements upon renewal of lease terms.

(d) Alternative Requirements.

At the option of the Board of Appeals, the requirements of this Section may be met through one or more of the methods below or through a combination of these methods and on-site units, provided that the alternative proposed is found by the Board of Appeals, in its discretion, to:

(i) comply with the methods below,

(ii) be advantageous to the Town in creating or preserving affordable housing, and

(iii) not result in the undue concentration of affordable units. The Town's order of preference for meeting the requirement of Section 4.40 is (1) on site housing, (2) off-site housing, (3) conveyance of land and/or buildings, and (4) cash payment [except for six to fifteen units as per Section 4.40(c)(1)]. Except as set forth below, affordable units provided through the alternative methods below shall comply in all respects other than on-site location with the requirements of this Section.

(1) Off-site location. Affordable units may be located on an alternative site or sites in Brookline suitable for housing use, preferably in the same neighborhood as the on-site development. Affordable off-site units may be located in an existing structure. The number of units required off-site will be based on the guidelines adopted as per (f) below, and developers will be expected to maximize the number of units so created. Off-site units shall be compatible in quality and character with the off-site neighborhood.

(2) Cash payment. Developers may make a cash payment to the Town or its designee in an amount based on the guidelines adopted as per (f) below.

(3) Conveyance of land and/or buildings. Developers may donate to the Town of Brookline or its designee land and/or buildings suitable for housing use, preferably in the same neighborhood as the on-site development. Such land and/or buildings shall have a current appraised fair market value no less than the net cost to the applicant of providing the required affordable units on-site.

(4) Cash contributions and donations of land and/or buildings shall be made to the Town or its designee and shall be used only for purposes of providing affordable housing for low, moderate, and upper-moderate income persons as defined by this section.

(e) Procedures.

For procedures applicable to affordable housing, refer to Section 5.09(c). Residential developments of less than ten units shall not be required to comply with Section 5.09(c)(1)(i) and (ii) unless otherwise subject to environmental impact and design review pursuant to Section 5.09(b). For residential developments of less than ten units the developer shall, at the time of application to the Building Commissioner, submit an Affordable Housing Plan demonstrating how the project meets the requirements of Section 4.40.

(f) Guidelines.

The Planning Board, in consultation with the Housing Advisory Board and after public notice and hearing, shall adopt guidelines to

aid in the interpretation and determination of the requirements of Section 4.40.

What year was the inclusionary/incentive provision adopted?

1987 According to Fran Price, at the Brookline affordable housing office, the bylaw has been modified several times and was rewritten in 2002.

Have affordable units been developed through this zoning mechanism?

Yes Brookline has built or is in the process of building approximately a 60-70 units as a result of the inclusionary zoning program.

According to Fran Price at the affordable housing office, 60 or 70 affordable housing units have been or are in the "pipeline" to be built. According to Price, the program works as well as it can because there is not much developable land.

In general, according to Price, 1-8 units are built in a given project. No more than 8 units are built per development. The maximum number built has been 8 units. Generally, developers give off site units with more than 8 units.

If there are less than 6 units then it doesn't apply for affordable housing purposes. According to Price, if there are 6 or more units then there is an affordable housing obligation. If there are 6-15 units then developers have the option to pay cash into an affordable housing fund or develop. If there are 16 units than a developer must include on-site units.

Burlington

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

Yes Burlington provides incentives for development of affordable housing. A developer can apply for a special permit to increase the density by 10%, provided that 10% of the units to be developed will be made affordable to persons of low and moderate income. The developer may also make a cash payemnt to be used for development of affordable housing.

The Zoning Bylaws of the Town of Burlington, Section 5.1.9 (Adopted 1977, Amended 2003)

5.1.9 Development Incentive for Affordable Housing

5.1.9.1 An owner or owners of land in all residential districts may, in connection with the submission of an application for a special permit and site plan to the Planning Board, pursuant to the requirements for particular uses within such districts, apply for a special permit to increase the number of dwelling units which would otherwise be permitted under this Bylaw up to a maximum of 10% of the units otherwise permitted on the tract under this Bylaw and provided that a minimum of 10% of all units in the tract are affordable to persons of low and moderate income. In all cases, affordable units shall be reasonably mixed with market rate housing units.

5.1.9.2 No development shall take place pursuant to a special permit under this section until and unless a site plan is submitted to and approved by the Planning Board.

5.1.9.3 In the event that a special permit under this section is granted, the lot area, frontage, width of lot at building and yards of the development shall be as shown by a site plan submitted to and approved by the Planning Board, which site plan shall conform generally to the pattern of development permitted in the district in which the land lies with such deviations as are reasonable, in the judgment of the Planning Board, to permit the increased density.

5.1.9.4 The Board may require, as a condition of said permit that, in lieu of all or some of the units for use by low and moderate income being provided within the development, the developer shall:

1. Make a cash payment to be used for low and moderate income units, which payment, as determined by the Board using accepted valuation methods, is equivalent in value to the units which otherwise would have been provided within the development;
2. Provide all or some of the required low and moderate income units on a site different from the development; and provided that in all cases it is reasonably mixed with market rate housing.
3. Provide all or some of the required low and moderate income housing through an alternative means other than those already listed in this subsection; or
4. Provide all or some of the required low and moderate income housing through a combination of any or all of the methods in this subsection.

If the Board allows the provision of some or all of the low and moderate income housing by a method different from this subsection, the Board shall first find that such alternative method will help alleviate the undue concentration of population and encourage housing for persons of all income levels; and will (a) encourage the most appropriate use of land and buildings, or (b) avoid undue hardship to land and buildings.

What year was the inclusionary/incentive provision adopted?

1988 Researcher found in the Appendix B, Amendments to Zoning Bylaws, that the amendment was passed in 1988.

The Zoning Bylaws of the Town of Burlington, Appendix B (Adopted 1977, Amended 2003)

Adopted -- Article V, "Density Regulations," Section 5.1.9, "Development Incentive for Affordable Housing." Public notice published 7/27, 8/3/88. Planning Board public hearing 8/11/88. Adopted Adj. (Third) Town Meeting 9/19/88, Art. 1. Approved by Att. Gen. 10/20/88. Adv. in Burl. News 10/27, 11/4/88.

Have affordable units been developed through this zoning mechanism?

Kristin Hoffman, Assistant Planner, said that she was not sure how much has been built through inclusionary zoning, and she noted that it has been a long time since the inclusionary bylaw has been triggered.

Cambridge

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

Yes 11.200 INCENTIVE ZONING PROVISIONS AND INCLUSIONARY HOUSING PROVISIONS

Purposes. The purposes of this Section 11.200 are to promote the public health, safety and welfare by encouraging the expansion and upgrading of the City's housing stock while accommodating the expansion of housing and commercial opportunities in the City; to provide for a full range of housing choices throughout the city for households of all incomes, ages and sizes in order to meet the City's goal of preserving diversity; to mitigate the impacts of commercial and residential development on the availability and cost of housing and especially housing affordable to low and moderate income households; to increase the production of affordable housing units to meet existing and anticipated housing and employment needs within the City; to provide a mechanism by which commercial and residential development can contribute in a direct way to increasing the supply of affordable housing in exchange for a greater density or intensity of development than that otherwise permitted as a matter of right; and to establish standards and guidelines for the use of such contributions from the application of incentive zoning and inclusionary housing provisions.

11.201 Definitions.

AFFORDABLE HOUSING TRUST shall mean the entity established by Chapter 482 of the Acts of 1991.

AFFORDABLE UNIT shall mean any dwelling unit for which the rent (including utilities) does not exceed thirty (30) percent of the income of the renting household or for which the mortgage payment (including insurance, utilities and real estate taxes) does not exceed thirty (30) percent of the income of the purchasing household or other standards as may be established pursuant to any city, state or federal housing program designed to assist low and moderate income households.

CONVERTED DWELLING UNIT shall mean a dwelling unit that has been converted from a non-housing use to a housing use in connection with the construction of an Inclusionary Project.

DEVELOPER shall mean any individual, corporation, business trust, estate trust, partnership or association, or any other entity or combination thereof.

ELIGIBLE HOUSEHOLD shall mean any household whose total income does not exceed eighty (80) percent of the median income of households in the Boston Standard Metropolitan Statistical Area adjusted for family size, or such other equivalent income standard as may be determined by the Board of Trustees of the Affordable Housing Trust Fund.

MEDIAN INCOME shall mean the income set forth in or calculated from regulations promulgated by the United States Department of Housing and Urban Development, pursuant to Section 8 of the Housing Act of 1937, as amended by the Housing and Community Development Act of 1974 or such other equivalent income standard as determined by the Board of Trustees of the Affordable Housing Trust Fund.

MIXED USE DEVELOPMENT shall mean a development that contains a combination of residential development and any other use.

PROJECT, INCENTIVE , shall mean that portion of projects containing uses listed in Sections 4.33c, 4.34, 4.35, 4.36, and 4.56 d 1 subject to the provisions of the special permits listed in Section 11.202.1.

PROJECT, INCLUSIONARY , shall mean any residential or mixed use development containing or creating ten or more new or converted dwelling units, including phased projects; or where fewer than ten new or converted dwelling units are created including phased projects, a residential development containing 10,000 square feet or more of gross floor area, in which case each 1,000 square feet shall be considered a dwelling unit.

PROJECT, PHASED , shall mean any residential or mixed use development or developments at one site or two or more adjoining sites in common ownership or under common control within a period of five years from the first date of application for . any special or building permit for construction on the lot or lots, or for the twelve months immediately preceding the date of application for any special or building permit, where a total of no less than ten new or converted units are built.

PROJECT, VOLUNTARY INCLUSIONARY , shall mean any residential or mixed use development containing less than ten new or converted dwelling units, including phased projects where the developer chooses to comply with the provisions. of Section 11.203.2.

RESIDENTIAL DEVELOPMENT shall mean single, two family and multi-family homes, townhouse development, elderly oriented

congregate housing and lodging and rooming house dwellings as set forth in Section 4.31 a-h, and i(3).

11.202 Applicability.

11.203 Applicability of Incentive Zoning Provisions. Where a developer chooses to seek to obtain a special permit pursuant to the sections listed below, which special permit authorizes an increase in the permissible density or intensity of a particular use in the proposed development, the developer shall be subject to the applicable provisions of this Section 11.200 et al. Increases in density or intensity of use shall include an increase in gross floor area or height, a reduction or waiver of parking requirements, or a change in dimensional requirements or the addition of uses that result in an increase in density or intensity of use.

Section 6.35 Reduction in required parking for nonresidential development

Section 20.108 Divergence from dimensional requirements, North Massachusetts Avenue Overlay District

Section 20.54.2(2) Additional height, Harvard Square Overlay District

Section 20.54.4(2) Waiver of parking and loading requirements, Harvard Square Overlay District

Section 20.54.5(2) Exemption from yard requirements, Harvard Square Overlay District

Section 20.63.7 Divergence from dimensional requirements, Parkway Overlay District

Section 20.304.2(2), (3) Additional height, Central Square Overlay District

Section 20.304.4 Waiver of setback requirements, Central Square Overlay District

Section 20.304.6 Waiver of parking requirements, Central Square Overlay District

Section 17.13.1(b) Additional FAR, Special District 1

Section 17.17 Transfer of Development Rights, Special District I

Article 13.00 PUD Districts, all permits.

11.202.2 Applicability of Inclusionary Housing Provisions. The provisions of this Section 11.200 shall apply to any Inclusionary Project and may be applied to any Voluntary Inclusionary Project. These provisions shall apply with respect to developments in all zoning districts of the city except those governed by the provisions of Article 15.000.

11.203 Requirements

11.203.1 Requirements for Incentive Zoning Contributions. A developer of an Incentive Project shall either make a Housing Contribution in accordance with this Section 11.203.1 (a) or shall create or cause to be created housing, in accordance with this Section 11.203.1 (b).

(a) Housing Contribution. For any project that is in whole or in part an Incentive Project, and that is, in total, less than thirty thousand (30,000) square feet of gross floor area, no contribution shall be required. For any project of thirty thousand (30,000) square feet of gross floor area or more, the developer shall contribute three dollars and twenty-eight cents (\$3.28) [Note: current adjust figure as of 9/1/00] for every square foot of gross floor area over two thousand five hundred (2500) square feet of that portion of the project authorized by the Special Permit that is an Incentive Project. Before the Superintendent of Buildings issues the first occupancy permit for the Incentive Project the developer of the Incentive Project shall deliver the Housing Contribution to the then Managing Trustee of the Affordable Housing Trust or its designee. The amount of the Housing Contribution shall be subject to review and recalculation three (3) years after the effective date of this provision and every three (3) years thereafter by the Cambridge City Council based on a consideration of current economic trends including but not limited to development activity, commercial rents per square foot, employment growth, and housing trends measured in terms of, but not limited to, vacancy rates, production statistics, and prices for dwelling units. The Board of Trustees for the Affordable Housing Trust may adjust the amount annually based on CPI or a similar standard to reflect changes in inflation rates.

(b) Housing Creation Option. The Developer of an Incentive Project required to make a Housing Contribution in Subsection 11.203.1 (a) above may create or cause to be created affordable units for occupancy exclusively by eligible households, or may donate land to be used exclusively for the development of affordable units. These units or land donation, must be of equivalent benefit toward addressing the City's affordable housing need as the housing contribution otherwise required. When this option is chosen a Developer shall obtain a report from the Board of Trustees of the Affordable Housing Trust, which report shall accompany the special permit application and shall advise the special permit granting authority as to whether the proposed Housing Creation conforms to the intent and purposes of, this Section 11.200 et al. The report shall also recommend such conditions, if any, as the Trustees may find appropriate to the issuance of the special permit to assure full compliance with the intent of this Section 11.200. The special permit granting authority shall give due consideration to the report of the Board of Trustees in granting any special permit subject to this Section 11.200 et al., and, in its discretion may approve the developers use of the Housing Creation Option.

11.203.2 Requirements for Inclusionary Housing.

(a) Any Inclusionary Project shall provide 15% percent of the total number of dwelling units up to the maximum allowed as of right as Affordable Units. Where the application of that formula results in a fractional dwelling unit, a fraction of one half of a dwelling unit or more shall be considered as one Affordable Unit. Each Affordable Unit shall meet the standards established in Section 11.204.

(b) To facilitate the objectives of this Section 11.200, modifications to the dimensional requirements in any zoning district, as set forth in Section 5.30, shall be permitted as of right for an Inclusionary Project, as set forth below:

(i) The FAR normally permitted in the applicable zoning district for residential uses shall be increased by thirty (30) percent for Affordable Units as set forth in Section 11.203.2 (a) above, and at least fifty percent of the additional FAR should be allocated for the Affordable Units. In a Mixed Use Development, the increased FAR permitted in this paragraph (i) may be applied to the entire lot; however, any gross floor area arising from such increased FAR shall be occupied only by residential uses, exclusive of any hotel or motel use.

(ii) The minimum lot area per dwelling unit normally required in the applicable zoning district shall be reduced by that amount necessary to permit up to two additional units on the lot for each one Affordable Unit required in Section 11.203.2 (a) above. The additional units on a lot permitted by this paragraph (ii) shall not be considered in determining the threshold by which a special permit is required in Section 4.26 - Multifamily Special Permit Applicability and Section 11.10 -Townhouse Development of the Zoning Ordinance.

(c) For any Inclusionary Project that includes a total number of dwelling units that exceeds the maximum allowed as of right, the number of affordable units shall be no less than 15% percent of the total number of dwelling units in the project; however, the number of additional units permitted under Section 11.203.2 (b) (ii) above shall not be further increased.

(d) For any Voluntary Inclusionary Project that proposes to provide one Affordable Unit, the provisions of Section 11.203.2 (b) (i) and (ii) may be applied after the issuance of a special permit from the Planning Board. In issuing a special permit the Planning Board shall find that the additional dwelling units or gross floor area permitted will not create a development significantly different in scale, density, or placement on the lot than can be found on adjacent lots or in the surrounding neighborhood; or if the development is significantly more dense, larger in scale or closer to the lot lines than can be found on adjacent lots, the Board shall find that the size or shape of the lot, the characteristics of development on abutting lots, and the nature of the design proposed on the subject lot mitigate any negative impact that such additional development may impose. In making its findings the Planning Board shall consider the other kinds of dimensional relief that the development may require and the extent to which such relief varies from the requirements of the zoning district.

(e) Affordable Units required by this Section 11.203.2 shall be provided on-site. However, approval for alternate means of compliance may be granted by the Planning Board in certain exceptional circumstances. In granting such approval, the Planning Board must find that the property owner has demonstrated that building the required affordable units on-site would create a significant hardship. A significant hardship shall be defined as being of such significance that the property can not physically accommodate the required affordable units and/or related requirements, such as height, setbacks, or parking. To have such a request considered, the burden of proof shall be on the property owner, who must make full disclosure to the Planning Board of all relevant information. Any request for alternate means of compliance shall be reviewed by the Affordable Housing Trust, which shall then forward its recommendation on the request to the Planning Board. The Affordable Housing Trust's recommendation shall be based upon whether the alternate means of compliance shall be of comparable value to the affordable unit that would have otherwise been provided in a comparable Inclusionary Project. The Planning Board's approval of the request shall be based upon the Affordable Housing Trust's recommendations, and the demonstration of hardship made by the property owner. The Planning Board may, in its sole discretion, use other information to determine the validity of the property owner's request. Approval of alternate means of compliance shall be only for payment of a sum equivalent to the value of the provision of an on-site Affordable Unit, which payment shall be made to the Affordable Housing Trust.

11.204 Standards for Construction and Occupancy of Affordable Units.

The following standards are intended to provide guidance to the special permit granting authority in instances where the Housing Creation Option is chosen to meet the requirements of this Section 11.200, to the Board of Trustees of the Trust in making any report it may make to the special permit granting authority or in authorizing the expenditure of any Housing Contribution funds, and to the Developer of any Inclusionary Project or Voluntary Inclusionary Project. In granting any special permit the special permit granting authority may allow for deviations from, or further define, these standards consistent with the purpose of this Section 11.200.

(a) Affordable Units in an Incentive Project shall be generally comparable in size and materials to dwelling units in the neighborhood or in the projection which it is located.

(b) To ensure livability, Affordable Units in an Inclusionary Project shall be generally comparable in size and materials to the other units in the overall project and consistent with local needs for affordable housing as approved by the Trust For Inclusionary Projects or Incentive Projects where appropriate exteriors of affordable units shall closely resemble the exteriors of other units in a project, and shall be reasonably distributed throughout the project.

(c) The Affordable Units shall, to a reasonable extent, serve eligible households of diverse incomes, including very low income, and diverse sizes throughout the city.

(d) The Affordable Units shall be subject to deed restrictions providing that they shall:

1) be occupied by eligible households.

2) be conveyed subject to restrictions, which to the extent legally possible shall guarantee the permanent availability of the Affordable Units to eligible households. Such restrictions shall include but not be limited to limited equity deed restrictions. In general, to meet this requirement, affordable rent levels shall be maintained for a minimum of 50 years from the date of initial occupancy in accordance with current practices of the City. With for-sale units, the City's current system of deed restrictions controlling resale prices shall be observed.

3) to the extent possible, give preference to eligible households who are Cambridge residents.

4) be rented or sold to Eligible Households, using marketing and selection guidelines customarily employed by the Community Development Department in selecting tenant and homeowner households under other City, state or federal housing assistance programs.

(e) 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 will be offered for sale.

(f) The affordable units shall be affordable to households having a target income of 65% of the area median income, or if the household has access to a rent subsidy, a lower income. The Trust shall have the discretion to approve a mix of higher and lower rents or sale prices, the average of which approximates an affordable price for a household at the target income level.

(g) The intent of the Inclusionary Housing provisions is that the Affordable Units required hereunder not use public funds to create; these provisions however, are not intended to discourage the use of public funds to generate a greater number of affordable units than are otherwise required.

(h) One parking space for each Affordable Unit in an Inclusionary Project shall be provided. If there is fewer than one parking space provided for each unit in the development, then the number of parking spaces provided for the Affordable Units shall be in the same proportion as the number provided to the market rate units. If there is no parking fee for the market rate units in an Inclusionary Project, then there shall be no parking fee for the Affordable Units. If there is a parking fee for the market rate units in an Inclusionary Project subject to Section 11.200, then the maximum parking fee for the Affordable Units shall not exceed the lesser of the following:

1) That fee which is in the same proportion of parking fee to rent as for those market rate units of equivalent size to the Affordable Units and having the lowest rent in the Inclusionary Project, or

2) That fee which, when combined with the maximum rent permitted of an Affordable Unit as defined in Section 11.201, does not exceed thirty three (33) percent of the Eligible Household's income.

11.205 Affordable Housing Trust.

Pursuant to the provisions of Chapter 482 of the Acts of 1991, an Affordable Housing Trust Fund was established. To facilitate the implementation of the provision of this Section 11.200, the Affordable Housing Trust Fund receives funds generated by this Section 11.200 and specifically Section 11.203.1(a), as well as other funds generated from other sources.

11.205.1 Uses of the Affordable Housing Trust. The Trust property may be made available for, but shall not be limited to, the following uses.

1. Creation of Affordable Units. To encourage the development of Affordable Units through a variety of means, including, but not limited to, the provision of favorable financing terms or direct write down of costs for either nonprofit or for profit developers or to subsidize the purchase of sites, existing structures, or affordable units within a larger development.

2. Multifamily Rehabilitation Programs. To finance the substantial rehabilitation of deteriorated properties in a manner that preserves the affordability of units through interest rate subsidies, loan guarantees or write down of project costs. Multifamily housing owned by nonprofit entities that ensure maximum long-term affordability shall receive priority-funding consideration.

3. Limited Equity Cooperative or Condominium Conversion. For acquisition and rehabilitation of potential cooperatives or condominiums through low interest blanket loans, share loans or direct cost write down.

11.205.2 Administration of the Affordable Housing Trust and its Activities. The Trust property may be made available to fund reasonable administrative expenses necessary to support Trust activities, including but not limited to consulting services such as legal, appraising or engineering, as well as other project related expenses. The Community Development Department shall provide the Board of Trustees with technical and administrative assistance.

11.205.3 Board of Trustees of Affordable Housing Trust. The City Manager shall appoint and chair a nine (9) member Board of Trustees of the Affordable Housing Trust. The Board of Trustees shall be composed of representatives from different sectors of the community with housing policy, and may include members of City Boards and agencies, nonprofit housing organizations and community representatives. The trustees, with concurrence of the City Manager, shall establish regulations for the operations of the Trust and Board of Trustees, and procedures for the implementation of this Subsection 11.205.

1) The Board of Trustees shall manage and administer the Affordable Housing Trust Fund including the disbursement of all funds,

units and land conveyed to the City of Cambridge.

2) The Board of Trustees shall review and approve or disapprove proposals submitted for use of the Housing Trust Fund. The Board shall develop policies and standards appropriate to and consistent with the Incentive Zoning and Inclusionary Housing provisions, section 11.200.

3) The Board shall explore the feasibility of and assist in the establishment of new programs designed to meet Cambridge affordable housing needs. These programs may include a city wide Land Bank program and Home Mortgage Pool.

4) The Board of Trustees shall provide assistance and necessary reports where appropriate to any special permit granting authority authorized to issue a special permit for any development making use of funds from the Affordable Housing Trust or subject to any provisions under this Section 11.200.

11.206 Enforcement

The Community Development Department shall certify in writing to the Superintendent of Buildings that all conditions of this Section 11.200, including any conditions that may be established by the special permit granting authority in issuing a special permit under this Section 11.200, have been met before issuance of the first building permit for any Incentive Project, Inclusionary Project, or Voluntary Inclusionary Project. Before the issuance of the first Certificate of Occupancy for such development the Trust shall certify in writing to the Superintendent of Buildings that all documents have been filed and actions taken that are necessary to fulfill the conditions of this Section 11.200 and any special permit authorized herein.

What year was the inclusionary/incentive provision adopted?

Have affordable units been developed through this zoning mechanism?

Canton

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

Yes Roger Nicholas, Town Planner, (8/18/04) said that Canton requires 15% affordable in the Canton Center Economic Opportunity district. Village housing also requires 15%. He said these are without density bonuses. Canton Center was passed in 2000 and Village Housing in 2003. In 2004, he said, they added the 15% provision. The village housing project has not gone forward. The 15% provision for Canton Center has just been approved by the Attorney General so there have been no projects under that.

Mr. Nicholas said that he does not know if 15% is viable economically. He gave an example of 12 units on a parcel and 15% needs to be affordable by 40B. The affordable units would sell for \$160,000. Market rate is \$450,000 for condos. The two affordable units would be a loss of about \$600,000. He suggested it might be better at 10%. "We don't know if this is something that will slow a project. Anyway, we have the 10% [of the housing stock as affordable under 40B] through other projects. It may be that we need to review the 15%. What has happened is the planning board has negotiated Chapter 40Bs. That was negotiated, not part of the zoning bylaw."

Canton Zoning Bylaw (Amended 2004)

5.6 Canton Center Economic Opportunity District By-law 105

[Footnote] 105 5.6 Inserted ATM 2000 under Article 53

5.66.11 Affordable Units¹¹² At least fifteen percent (15%) of the dwelling units shall be deed restricted in perpetuity, except for four units or less, the Board may decide to waive this requirement; for occupancy by persons earning not more than eighty percent of the area median income as defined and regulated by the Commonwealth's Department of Housing and Community Development, and 20% shall be for low income persons. Such affordable housing units shall be integrated into the overall development so as to prevent the physical segregation of such units and otherwise shall be indistinguishable from market rate units except in size and interior finishing and appliances. 5.66.11.A113 Affordable Units: Under Mass. Housing's Priority Development Fund where at least 20% of the units, as designated in 5.66.11 are affordable to low income persons as defined and regulated by the Commonwealth's Dept. of Housing and Community Development, which development incorporates Smart Growth principles including locating in town center, reuse of existing structures, locating around transportation sites, and preserving natural resources, and including Canton Center Economic Opportunity District. 5.66.12 Preference¹¹⁴ As a condition of approval, the Zoning Board of Appeals shall require that Canton residents be given first preference in the purchase or renting of affordable units, and the fees for all services will be negotiated between the Authority and the Developer, within the Canton Center Economic Opportunity District Development as provided for in 5.66.11 and 5.66.11 A. 5.66.13 Canton Housing Authority ¹¹⁵ For those apartment units specified as affordable, the Zoning Board of Appeals shall require that the Canton Housing Authority be given priority with regard to the selection process of residents.

[footnotes]

112 5.66.11 Inserted ATM 2004, under Article 50
113 5.66.11A Inserted ATM 2004, under Article 50
114 5.66.12 Inserted ATM 2004, under Article 50
115 5.66.13 Inserted ATM 2004, under Article 50

5.8 Village Housing Overlay District 107

107 5.8 Inserted ATM 2002, Article 55

J. Affordable Units. At least fifteen percent (15%) of the dwelling units shall be deed restricted for purchase by persons earning not more than eighty percent of the area median family income as defined by the Commonwealth's Department of Housing and Community Development. Such affordable dwelling units shall be integrated into the overall development so as to prevent the physical segregation of such units and otherwise shall be indistinguishable from market rate units except in size and interior finishing and appliances.

5.10 Mixed Use Overlay District 118

[footnote] 118 5.10 Inserted ATM 2004 under Article 38

5.10.5 Mixed Uses. The use of property within a MOD may be authorized by a special permit issued by the Zoning Board of Appeals pursuant to this Section and in compliance with the standards set forth herein. a. The use shall be a "mixed use," which is defined as a use which utilizes a minimum of sixty (60%) percent and a maximum of seventy-five (75%) percent of a building or buildings as residential use and a minimum of twenty-five (25%) percent and a maximum of forty (40%) percent as non-residential use. At least twelve (12%) percent of the residential use shall be for affordable housing as defined in M.G.L. c. 40B.

What year was the inclusionary/incentive provision adopted?

2002 Canton Zoning Bylaw (Amended 2004)

5.6 Canton Center Economic Opportunity District By-law 105

[Footnote] 105 5.6 Inserted ATM 2000 under Article 53

5.66.11 Affordable Units¹¹² At least fifteen percent (15%) of the dwelling units shall be deed restricted in perpetuity, except for four units or less, the Board may decide to waive this requirement; for occupancy by persons earning not more than eighty percent of the area median income as defined and regulated by the Commonwealth's Department of Housing and Community Development, and 20% shall be for low income persons. Such affordable housing units shall be integrated into the overall development so as to prevent the physical segregation of such units and otherwise shall be indistinguishable from market rate units except in size and interior finishing and appliances. 5.66.11.A¹¹³ Affordable Units: Under Mass. Housing's Priority Development Fund where at least 20% of the units, as designated in 5.66.11 are affordable to low income persons as defined and regulated by the Commonwealth's Dept. of Housing and Community Development, which development incorporates Smart Growth principles including locating in town center, reuse of existing structures, locating around transportation sites, and preserving natural resources, and including Canton Center Economic Opportunity District. 5.66.12 Preference¹¹⁴ As a condition of approval, the Zoning Board of Appeals shall require that Canton residents be given first preference in the purchase or renting of affordable units, and the fees for all services will be negotiated between the Authority and the Developer, within the Canton Center Economic Opportunity District Development as provided for in 5.66.11 and 5.66.11 A. 5.66.13 Canton Housing Authority¹¹⁵ For those apartment units specified as affordable, the Zoning Board of Appeals shall require that the Canton Housing Authority be given priority with regard to the selection process of residents.

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5.8 Village Housing Overlay District 107

107 5.8 Inserted ATM 2002, Article 55

J. Affordable Units. At least fifteen percent (15%) of the dwelling units shall be deed restricted for purchase by persons earning not more than eighty percent of the area median family income as defined by the Commonwealth's Department of Housing and Community Development. Such affordable dwelling units shall be integrated into the overall development so as to prevent the physical segregation of such units and otherwise shall be indistinguishable from market rate units except in size and interior finishing and appliances.

Have affordable units been developed through this zoning mechanism?

No Roger Nicholas, Town Planner, (8/18/04) said that Canton requires 15% affordable in the Canton Center Economic Opportunity district. Village housing also requires 15%. He said these are without density bonuses. Canton Center was passed in 2000 and

Village Housing in 2003. In 2004, he said, they added the 15% provision. The village housing project has not gone forward. The 15% provision for Canton Center has just been approved by the Attorney General so there have been no projects under that.

Mr. Nicholas said that he does not know if 15% is viable economically. He gave an example of 12 units on a parcel and 15% needs to be affordable by 40B. The affordable units would sell for \$160,000. Market rate is \$450,000 for condos. The two affordable units would be a loss of about \$600,000. He suggested it might be better at 10%. "We don't know if this is something that will slow a project. Anyway, we have the 10% [of the housing stock as affordable under 40B] through other projects. It may be that we need to review the 15%. What has happened is the planning board has negotiated Chapter 40Bs. That was negotiated, not part of the zoning bylaw."

Carlisle

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

No

What year was the inclusionary/incentive provision adopted?

Have affordable units been developed through this zoning mechanism?

Carver

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

Yes Town of Carver Zoning Bylaws (Adopted 1963, Revised 2003)

ARTICLE III. GENERAL REGULATIONS

3900. TOWNHOUSE DEVELOPMENT

3910. Purpose. The purpose of this section is to encourage the preservation of open land for its scenic beauty particularly frontage along public ways, ponds, rivers, wetlands and to enhance open space, forestry, and recreational use; to preserve existing agricultural, historical and archeological resources; to protect the natural environment; to protect the value of real property; to promote more sensitive siting of buildings and better overall site planning; to perpetuate the appearance of Carver's traditional New England landscape; to facilitate the construction and maintenance of streets, utilities, and public services in a more economical and efficient manner;

and to promote the development of varied housing opportunities, including housing affordable to low and moderate income families and provide accompanying conveniences, recreational areas and community center facilities.

3920. Applicability. A Townhouse Development may be permitted by special permit on a single tract of land, in single or consolidated ownership at the time of application, with an area of at least twenty acres (20) entirely in the RA District or in the HC District, or with an area of at least three (3) acres entirely in the GB District or in the V District.

3930. Procedures. An applicant for a Townhouse Development shall submit to the Planning Board an application for a special permit and ten (10) copies of a Development Plan in such form as may be required in the Planning Board's Rules and Regulations Governing Townhouse Development Special Permits, together with a Net Usable Land Area plan as described in Section 3940 and an application for Site Plan Approval under Section 3100. Special permits for Townhouse Developments shall be acted upon in accordance with Section 5300 of this by-law, and shall conform to the standards in Section 2230 and to the following requirements.

3940. Number of Dwelling Units. The number of dwelling units shall be established by having a Net Usable Land Area (NULA) plan for the overall property submitted to the Board. The NULA acreage is established by subtracting all water bodies, wetlands, marshes, bogs and land within a sixty-five (65) foot wetland buffer area to these regulated lands. The remaining upland area is the NULA for the purposes of establishing the number of dwelling units allowed in a townhouse development. In the RA and HC districts, the total number of proposed dwelling units within the development shall not exceed one point two-five (1.25) units per NULA acre. In the GB and V districts, the total number of proposed dwelling units within the development shall not exceed two (2) units per NULA acre.

3941. Ten percent (10%) of the total number of dwelling units shall meet the State's affordable housing requirements for low to moderate income. These affordable units shall be marketed through the Carver Housing Authority, South Shore Housing Authority or other housing organization approved by the Board with resale restrictions to assure continued affordability in perpetuity. Such restrictions shall be made known to the homebuyer or renter prior to the purchase / occupancy of unit. Dwelling units reserved for occupancy by persons or families of low to moderate income, or for occupancy by a single individual, shall not be segregated from market rate or larger dwelling units in the Townhouse Development.

3942. Dwelling units shall be varied as to the number of bedrooms. The maximum number of bedrooms allow in a dwelling unit shall be three (3). No more than fifteen percent (15%) of the total number of dwelling units shall have three (3) bedrooms.

3943. Maximum building height shall not exceed thirty-five (35) feet.

3944. The number of townhouse units in a proposed Town House Development, when combined with the number of all existing and

previously permitted townhouse units in Carver, shall not exceed twenty-five percent (25%) of the total number of existing dwelling units in the Town as of the date of the Townhouse Development special permit application.

3950. Open Space Requirements. One or more open space areas shall be shown on the development plan. Such areas shall include the following:

- a. all undeveloped wetlands on the parcel;
- b. the 65 ft. buffers to those wetlands; and
- c. a minimum of fifty percent (50%) of the NULA of the parcel if it is in the RA or HC district, or a minimum of thirty percent (30%) of the NULA of the parcel in the GB or V district. Such open space shall exclude required building envelopes, and buffers to adjoining properties (except where buffer areas are contiguous to said open space areas). Such open space may be divided by roads constructed within the Townhouse Development.

3951. The required open space shall be used for conservation, historic preservation and education, outdoor passive education, park purposes, or for a combination of these uses, and shall be served by suitable access for such purposes.

3952. The required open space shall remain unbuilt upon, provided that five percent (5%) of such open space may be paved or built upon for structures accessory to the dedicated use or uses of such open space, such as a community center, pedestrian walks, bike paths, pools, tennis courts, and existing agriculture.

3953. The required open space shall be of a shape, size, character, and location suitable, in the opinion of the Planning Board, for its intended purposes. At least half of the required upland open space shall be in a consolidated and unfragmented mass, as reasonably

interpreted by the Planning Board. To the extent possible, the open space shall include land of the greatest scenic, environmental, or recreational importance to the Town.

3954. The required open space shall be conveyed in conformance to the requirements provided in the Rules and Regulations Governing Townhouse Development Special Permits.

3955. Any proposed open space, unless conveyed to the Town or its Conservation Commission, shall be subject to a recorded restriction enforceable by the Town, providing that such land shall be perpetually kept in an open state, that it shall be preserved for the uses

listed in Section 3951, and that it shall be maintained in a manner that will ensure its suitability for its intended purposes.

3960. Design Standards. The following design standards are required:

3961. Buffer Areas: All dwellings and structures shall be located a minimum of sixty (60) feet from adjacent properties, and one hundred (100) feet from adjacent surface waters or wetlands. Buffer areas shall be retained in their natural vegetative state to the maximum extent feasible, where the sixty (60) foot buffer of natural vegetation is not adequate (in the Planning Board's opinion) to screen the development from adjacent properties the Board may require additional plantings, earth berms and/or fencing.

3962. Building Envelope: All site plans shall locate a building envelope radius of forty (40) feet from the outside edge of a townhouse building or group of buildings. Open space, ways, lanes and collectors may not be located within the building envelope. Parking, driveways, sidewalks, individual unit gardens/lawns etc. may be developed within the building envelope.

For the minimum setback between buildings see the following Section 3963.

3963. Architectural style: Architectural style shall be in harmony with the prevailing character and scale of buildings in the neighborhood and the Town, through the use of appropriate building materials, screening, breaks in roof and wall lines, setbacks and other

architectural techniques. Variation in detail, style, form and location shall be used (for both the residential units and accessory garages if employed) to provide visual interest and avoid monotony. Proposed buildings shall relate harmoniously to each other with adequate light, air, circulation, and separation between buildings. Adequate separation shall mean a minimum distance of 1.2 times the height of the proposed buildings.

3964. Roadways: Roadway length and construction details are provided in the Townhouse Development Special Permit Rules and Regulations. The Board may require that existing problems on/ or adjacent to the site be mitigated as a condition of approval of the special permit under this section.

3965. Parking: The development shall provide two (2) spaces per each unit, plus one (1) visitor parking space for every five (5) units, plus one (1) space for every two hundred (200) square feet of non-residential building area. In cases where the units are provided with a garage and two spaces for each unit on a driveway, the visitor spaces shall not be required.

Parking areas shall be screened from public ways and adjacent or abutting properties by building location, fencing and/or dense plantings. Parking areas, including maneuvering space for parking and loading areas shall not be located within the required buffer areas. No parking shall be allowed on interior roadways.

3966. Services: Exposed storage areas, machinery, service areas, truck loading areas, adequate solid waste disposal facilities, utility buildings and structures and other unsightly uses shall be set back and/or screened to protect neighbors and future residents from said features. Electric, telephone, cable TV, and other such utilities shall be underground. An adequate water source for fire protection shall be provided.

3967. Lighting: No building/structure shall be floodlit. Drives, walkways, entryways, and parking areas shall not be illuminated by lights higher than fifteen (15) feet, which shall be shielded to have a total cutoff of all light at less than ninety (90) degrees and a beam cutoff less than seventy-five (75) degrees..

3970. Decision. The Planning Board may approve, approve with conditions, or deny an application for a Townhouse Development, after considering the criterion set out in Section 5300, and also assessing whether the Townhouse Development better promotes the objectives of Section 3910, herein, than would conventional development.

3980. Relation to Other Requirements. The submittals and permits of this section shall be in addition to any other requirements of the Subdivision Control Law or any other provisions of this Zoning By-law.

What year was the inclusionary/incentive provision adopted?

Ordinance.com notes that the "inclusionary" section was amended in 2004.

3941. Ten percent (10%) of the total number of dwelling units shall meet the State's affordable housing requirements for low to

moderate income. These affordable units shall be marketed through, and homebuyers or renters selected by, the Carver Housing Authority, South Shore Housing Authority or other housing organization approved by the Board with resale restrictions to assure continued affordability in perpetuity. Such restrictions shall be made known to the homebuyer or renter prior to the purchase / occupancy of unit. Dwelling units reserved for occupancy by persons or families of low to moderate income, or for occupancy by a single individual, shall not be segregated from market rate or larger dwelling units in the Townhouse Development.

**Webmasters Note: The previous subsection has been amended as per an update approved at a town meeting held on 5/17/04.

Have affordable units been developed through this zoning mechanism?

Yes Greg Guimond, town planner, (11/12/04) said that this bylaw has been unsuccessful. Only two units of affordable housing have been developed through this bylaw.

Chelmsford

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

Yes Answer based on 7/22/04 email from Andy Sheehan, Chelmsford Director of Community Development -- "Theoretically they are inclusionary, but they have never been utilized by a developer. Developers tell us there is insufficient incentive for them to take advantage. I think the multifamily bonus provision has been in place since 1987; the facilitated & independent living has been in place since 1999."

Within the provisions of its Multifamily Zoning and Senior Family Zoning, there are provisions for a density bonus if a certain number of affordable units are provided.

The Land Use Ordinance of Chelmsford
MIDDLESEX COUNTY, MASSACHUSETTS
Chapter 195 ZONING
[HISTORY: Adopted by the Annual Town Meeting of the Town of Chelmsford 10-22-1998 by Arts. 22 to 26. Amendments noted where applicable.]

ARTICLE XII Multifamily Dwellings

Section 195-63. Density bonus.

For every one unit in 10 set aside for low and moderate-income persons and families in a multifamily housing project, the applicant may apply and the Planning Board may grant a bonus of one additional unit. To apply the applicant shall demonstrate to the Planning Board that:

- A. The rent required for the unit set aside shall meet the affordable rents established by the Department of Housing and Urban Development for the Chelmsford area;
- B. The unit set aside shall be made available to low and moderate-income persons and families for a period of no less than 10 years;
- C. The low and moderate-income level shall be as defined by the Department of Housing and Urban Development for the Chelmsford area; and
- D. The applicant shall work with the Housing Authority to rent units to eligible persons and families.

ARTICLE XVII Facilitated and Independent Senior Living Facilities [Amended 10/16/00]

Section 195-91.1. Affordability standards for facilitated and independent senior living projects.

The Planning Board shall only grant a density bonus for a project that provides rental units. The Planning Board may grant a density bonus upon a finding that such increase is determined to promote the objectives of Article XVII and according to one of the criteria listed below. Where there is more than one size or style of unit in a project the affordable units shall comprise the same percentage as market rate units.

- A. One-half of all additional units created through density bonuses shall be maintained as affordable units according to Department of Housing & Urban Development Section 8 Voucher Program or such other program agreeable to the Planning Board, Chelmsford Housing Authority and the applicant. The term "affordable" shall be as defined by the Massachusetts Department of Housing and Community Development for Chelmsford.
- B. A contribution pursuant to MGL c.44, Section 53A for the creation of units of senior and elder affordable housing.
- C. Such other method agreed to by the Planning Board and the applicant.

What year was the inclusionary/incentive provision adopted?

1987 Answer based on 7/22/04 email from Andy Sheehan, Chelmsford Director of Community Development -- "Theoretically they are inclusionary, but they have never been utilized by a developer. Developers tell us there is insufficient incentive for them to take advantage. I think the multifamily bonus provision has been in place since 1987; the facilitated & independent living has been in place since 1999."

Have affordable units been developed through this zoning mechanism?

No Answer based on 7/22/04 email from Andy Sheehan, Chelmsford Director of Community Development -- "Theoretically they are inclusionary, but they have never been utilized by a developer. Developers tell us there is insufficient incentive for them to take advantage. I think the multifamily bonus provision has been in place since 1987; the facilitated & independent living has been in place since 1999."

Chelsea

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

Yes According to John DePriest, Chelsea has a 10% set aside in their PUDs.

b. In appropriate cases, the Special Permit Granting Authority on a recommendation from the Department of Planning and Development may require a set aside of not more than ten (10) percent of the dwellings units, if any, for low and moderate income housing.

What year was the inclusionary/incentive provision adopted?

Have affordable units been developed through this zoning mechanism?

Clinton

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

Yes Town of Clinton Zoning Bylaws (Amended 2001)

SECTION 7000. SPECIAL RESIDENTIAL REGULATIONS
7100. FLEXIBLE DEVELOPMENT

7110. Purpose. The purposes of this section, Flexible Development, are

7111 to encourage the preservation of open land for its scenic beauty and to enhance agricultural, open space, forestry, and recreational use,

7112 to preserve historical and archeological resources, to protect the natural environment, including Clinton's varied landscapes and water resources,

7113 to protect the value of real property,

7114 to promote more sensitive siting of buildings and better overall site planning,

7115 to perpetuate the appearance of Clinton's traditional New England townscape,

7116 to facilitate the construction and maintenance of streets, utilities, and public services in a more economical and efficient manner,

7117 to offer an alternative to standard subdivision development,

7118 to promote the development of housing affordable to low, moderate, and median income- families, and

7119 to promote the development of housing for persons over the age of fifty five

...

7173 For every dwelling unit restricted as affordable to persons or families qualifying as low income, four (4) dwelling unit may be added as a density bonus For every dwelling unit restricted as affordable to persons or families qualifying as moderate income, three (3) dwelling unit may be added as a density bonus For every dwelling unit restricted as affordable to persons or families qualifying as median income, two (2) dwelling unit may be added as a density bonus Thus density bonus shall not exceed 15% of the Basic Maximum Number

7174 For every basic dwelling unit restricted to two (2) bedrooms, an additional two (2) bedroom unit may be added as a density bonus This density bonus shall not exceed 10% of the Basic Maximum Number

7180. Development Standards. The following standards shall apply in all Flexible Developments

7181 Types of Buildings The Flexible Development may consist of any combination of single-family two-family and multifamily residential structures A multifamily structure shall not contain more than twelve (12) dwelling units, provided, however, that not more than ten percent of the dwelling units may be in multifamily structures with more than five (5) units The architecture of all multifamily buildings shall be residential in character

7182 Roads ...

7183 Parking. Each dwelling unit shall be served by 1 5 of street exterior parking spaces Parking spaces in front of garages may count in this computation

7184 Contiguous Open Space A minimum of twenty percent (20%) of the parcel shown on the development plan shall be contiguous open space Any proposed contiguous open space, unless conveyed to the Town or its Conservation Commission, shall be subject to a recorded restriction enforceable by the Town, providing that such land shall be perpetually kept in an open state, that it shall be preserved for exclusively agricultural, horticultural, educational or recreational purposes, and that it shall be maintained in a manner which will ensure its suitability for its intended purposes

...

7200. MILL CONVERSION/PLANNED DEVELOPMENT

7210. General. Existing mill structures of more than twenty thousand (20,000) square feet of floor area can be converted to a Planned Development which may include the following uses dwelling units, retail offices, artist's lofts and hand crafts, and any other uses authorized as of right or by special permit in any zoning district

7220. Uses. Within a Mill Conversion/Planned Development, dwelling units, retail offices, artist's lofts and hand crafts, and the like may be allowed by special permit from the Planning Board

7221 Accessory uses and recreation facilities for the use of the residents and/or employees of the area only to include golf course, tennis courts, jogging trails, swimming pools and similar outdoor facilities, a community building not to exceed five (5) percent of the total floor area of the residential units, parking area and garages, storage sheds, cabanas, detached fireplaces and similar facilities for use by the residents of the Planned Development, but not including home occupations, taking of boarders or lodgers, renting of rooms or professional offices, incidental retail sales and services

7222 If there is more than one type of major land use (e g , residential, institutional, office building, or research establishment), no one type shall constitute less than ten (10) percent or more than seventy (70) percent of the total dwelling units or gross floor area

7223 If the conversion is to dwelling units, at least ten (10) percent of the units shall beset aside for low and moderate income housing as defined by the Commonwealth of Massachusetts and the Clinton Housing Authority

...

Definitions

AFFORDABLE TO PERSONS OR FAMILIES QUALIFYING AS LOW INCOME Affordable to persons in the area under the applicable guidelines of the Commonwealth's Department of Housing and Community Development earning less than 50% of the median income

AFFORDABLE TO PERSONS OR FAMILIES QUALIFYING AS MEDIAN INCOME Affordable-to persons in the area under the applicable guidelines of the Commonwealth's Department of Housing and Community Development earning more than 80% but less than 120% of the median income

AFFORDABLE TO PERSONS OR FAMILIES QUALIFYING AS MODERATE INCOME Affordable to persons in the area under the applicable guidelines of the Commonwealth's Department of Housing and Community Development earning more than 50% but less than 80% of the median income

What year was the inclusionary/incentive provision adopted?

Building Inspector Pete Pender did not say whether the town's incentive zoning provisions were in existence prior to the 2001 revision and recodification of the town's zoning bylaws. (11/16/04)

Have affordable units been developed through this zoning mechanism?

No Building Inspector Pete Pender said that developers are allowed density bonuses if they offer affordable housing in flexible zoning, but that no one has ever taken advantage of it. (11/16/04)

Cohasset

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

Yes Section 16: Senior Multi-Family Residence Overlay District
The Senior Multi-family Residence Overlay District created herein shall be deemed to be an overlay district. The location and boundaries of the Senior Multi-family Residence Overlay District are established and shown as the Residence B and Residence C Zoning Districts on a map entitled "Town of Cohasset, Massachusetts, Zoning District Map, March 2002" prepared by Amory Engineers, P.C. The requirements set forth below shall constitute an alternative means of development of land of appropriate area within the District, provided that a Special Permit in accordance with this Section 16 is granted by the Planning Board. If such a Special Permit is not sought, is not granted or lapses, all requirements of the underlying district shall apply to the land.'

16.1 Definitions

16.1.2 AFFORDABLE TO PERSONS OR FAMILIES QUALIFYING AS LOW INCOME shall mean affordable to persons in the Cohasset area under the applicable guidelines of the Commonwealth's Department of Housing and Community Development earning less than 50% of the area median household income.

16.1.3 AFFORDABLE TO PERSONS OR FAMILIES QUALIFYING AS MODERATE INCOME shall mean affordable to persons in the Cohasset area under the applicable guidelines of the Commonwealth's Department of Housing and Community Development earning more than 50% but less than 80% of the area median household income.

16.1.4 AFFORDABLE TO PERSONS OR FAMILIES AS MEDIAN INCOME shall mean affordable to persons in the Cohasset area under the applicable guidelines of the Commonwealth's Department of Housing and Community Development earning more than 80% but less than 120% of the area median household income.

16.9 Affordability and Density Bonus Component

16.9.1 At least 25% of the dwelling units shall be affordable to persons who meet or qualify under this bylaw's definition of low or moderate income housing for a period not less than thirty (30) years.

16.9.2 A density bonus of 2 units per acre shall be granted when at least 25% of the dwelling units, in addition to affordable units as per Section 16.9.1 herein, are affordable to persons who meet or qualify under this bylaw's definition of median income housing for a period not less than thirty (30) years.

16.9.3 Affordable units in a SMRD must qualify as low or moderate income housing units eligible to be included in the calculation of such units by the Department of Housing and Community Development ("the D.H.C.D.") when determining the percentage of the Town of Cohasset's total housing units which are low or moderate income housing units. To assure such qualification, affordable units in a SMRD shall meet the requirements of the D.H.C.D. for qualification as low or moderate income housing units, including without limitation the definition of low or moderate income housing stated in 760 C.M.R. 30.02 and the requirements for calculation of the statutory minimum stated in 760 C.M.R. 31.04 as the same are currently in effect and as the same may be amended.

**Webmasters Note: The previous section, Section 16., has been added as per an update approved at a town meeting held on 11/18/02."

5.4 TABLE OF AREA REGULATIONS NOTES

11. INCREASED DENSITY - LOW OR MODERATE INCOME HOUSING

The Planning Board shall have the power pursuant to Massachusetts General Laws, Chapter 40A, Section 9, to grant a special permit to allow an increase in the number of Building lots in a subdivision or the number of dwelling units in a residential cluster district ("RCDD") to an amount ten (10%) percent greater than that permitted by the Table of Area Regulations; provided however, that as a condition of such grant, the developer of the subdivision or the RCDD shall be permitted to use such excess ten (10%) percent housing only as housing for persons of low or moderate income, and further provided that ten (10%) percent of the lots in the subdivision or ten (10%) percent of the dwelling units in the RCDD that would have been permitted by the Table of Area Regulations shall also be used for housing for persons of low or moderate income.

What year was the inclusionary/incentive provision adopted?

2002

Have affordable units been developed through this zoning mechanism?

No The Cohasset Master Plan and EO418 plan of January 2004 indicate that affordable units have not yet been developed through these mechanisms.

Concord

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

Yes SECTION 9. RESIDENTIAL CLUSTER DEVELOPMENT

9.4 Optional Special Provisions for Affordable Housing by the Board

9.4.1 Approval by the Board Where the proposed Residential Cluster Development provides for the granting of land for affordable housing purposes, the Residential Cluster Development special permit shall be granted by the Board and the Board may authorize limited exceptions to the number of lots permitted and the open space requirements.

9.4.2 Exceptions for Granting of Land for Affordable Housing Purposes. The Board may increase the basic density permitted within a Residential Cluster Development and may reduce the required open space area provided that a lot or lots within the development be donated to the Town for affordable housing purposes. For each lot so donated, the Board may increase the basic density by two (2) lots and may reduce the required open space area. In no case shall the total number of lots be increased by more than forty (40) percent, and in no case shall the open space area be reduced to less than forty (40) percent of the area of the development tract.

9.4.3 Procedure for Approval of Optional Special Provisions by the Board

9.4.3.1 Application. Any person who desires a special permit for a Residential Cluster Development with Optional Special Provisions for Affordable Housing shall submit an application in writing in such form as the Board may require.

9.4.3.2 Planning Board Report and Recommendations. The Planning Board shall review the proposed Residential Cluster Development plans and shall submit in writing to the Board its report and recommendations upon the technical quality of the proposed development, and at least the following:

(a) General descriptions of the natural terrain of the cluster tract and surrounding areas, and of the neighborhood in which the tract is situated.

(b) A review of the proposed development, including the design and use of the open space and of pedestrian and vehicular circulation.

(c) An evaluation and opinion upon the degree to which any land intended to be conveyed to, or restricted as open space for the benefit of the Town: provides or will in the future provide an addition to areas of open space between developed sections of the Town; makes available land desirable for other public use; and conforms to the Town's long-range land use plan.

(d) An evaluation and opinion upon the degree to which any land intended to be conveyed to the Town for affordable housing conforms to the Town's housing objectives and policy.

(e) Its opinion as to whether the proposed tract size, site design, development layout, number and location of lots constitute a suitable development for the neighborhood within which it is located.

(f) A statement that the developer's plans comply with the design standards of the Subdivision Rules and Regulations of the Planning Board, or wherever such plans do not comply, a statement of the respects in which they do not so comply.

(g) Recommendations for the granting or denial of the special permit, including recommendations for modifications, restrictions, or requirements to be imposed as a condition of granting the special permit.

9.4.3.3 Natural Resources Commission Report and Recommendations. The Natural Resources Commission shall review the Residential Cluster Development plans and shall submit in writing to the Board its report and recommendations as provided in Section 9.3.2 above.

9.4.3.4 Special Permit by Board for Optional Provisions for Affordable Housing. A special permit shall be issued under this Section for a Residential Cluster Development with Optional Provisions for Affordable Housing only if the Board shall find the development conforms with Section 9.3.3 and also finds the proposed Residential Cluster Development provides significant public benefits through the granting of land for affordable housing purposes.

9.4.3.5 Conditions. If a special permit is granted, the Board shall impose as conditions thereof the following:

(a) The open space shall be conveyed, free of any mortgage interest or security interest and subject to a perpetual restriction of the type described above, prior to the Planning Board's release of any lots from the subdivision restrictive covenant or, if there is no covenant, prior to the Building Inspector's issuance of the building permit for any lot. A petitioner shall provide satisfactory assurance of said conveyance and recording in the forms of copies of the recorded instruments bearing the recording stamp, or otherwise as the Board may direct;

(b) All lots to be conveyed to the Town for affordable housing purposes shall be conveyed, free of any mortgage interest or security interest prior to the Planning Board's release of any lots from the subdivision restrictive covenant, or if there is no covenant, prior to the Building Inspector's issuance of a building permit for any lot. The petitioner shall provide satisfactory assurance of said conveyance and recording in the form of copies of the recorded instruments bearing the recording stamp, or otherwise as the Board may direct.

SECTION 10. PLANNED RESIDENTIAL DEVELOPMENT (PRD)

10.2.3 Diversity of Dwelling Units: A mix of diverse housing opportunities shall be provided in all Planned Residential Developments. Such diversity may consist of: a mix in the number of bedrooms available or the gross floor area of the units, a mix of single-family, two-family and multi-family units or a mix of the price or rental rates of the units. If all the units proposed in the Planned Residential Development are market-rate units, then only the basic density shall be permitted. Increases beyond the basic density within the Planned Residential Development may be authorized by the Board only if one or more units are made available as described in subsection 10.2.3.1 and 10.2.3.2. Any increases in density permitted by the Board shall not exceed the limits contained in subsection 10.2.2 and shall be based upon the degree to which the proposed PRD provides a range of low income and affordable dwelling units, in addition to the mix of diverse housing opportunities.

10.2.3.1 Low income dwelling units are those units made available to the Concord Housing Authority, or other entity as the Board may direct, either for purchase within the cost limits allowed by the Commonwealth of Massachusetts Executive Office of Housing and Community Development, or for lease under federal or state rental-assistance programs, or through a long-teen contractual agreement.

10.2.3.2 Affordable dwelling units are those units made available for sale, lease or rent at below market rates based on the following:

(a) Starter-priced housing. Dwelling units set aside for sale, lease or rental to households with incomes of less than one-hundred ten (110) percent of the median family income for the Boston Metropolitan Area as determined by the most recent calculation of the U.S. Department of Housing and Urban Development.

(b) Moderate-priced housing. Dwelling units set aside for sale, lease or rental to households with incomes of less than one hundred and fifty (150) percent of the median family income for the Boston Metropolitan Area as determined by the most recent calculation of the U.S. Department of Housing and Urban Development.

10.2.3.3 Unit size: A variety of units shall be provided within the PRD, which may include dwelling units of one, two, three or more bedrooms; with a minimum gross floor area of not less than four-hundred (400) square feet.

10.2.3.4 Exterior design: The exterior of low income and affordable dwelling units shall be designed to be indistinguishable from the market-rate units; however it is recognized that these units may be smaller and have fewer features than market-rate units. Any low income units and affordable units proposed shall be integrated into the PRD development.

10.2.3.5 Long-term availability: The Board, as a condition of a special permit, shall impose appropriate limitations and safeguards to insure the continued availability of the below market-rate units for a minimum of forty (40) years. Such limitations and safeguards may be in the form of deed restrictions, resale monitoring, requirements for income verification of purchasers and/or tenants, rent level controls or other method as the Board may direct.

What year was the inclusionary/incentive provision adopted?

1987 According to Marcia Rasmussen, the affordable housing sections were created in 1987 but have been amended several times since then. They were last updated in 2001.

Have affordable units been developed through this zoning mechanism?

Yes According to Marcia Rasmussen, approximately 1/3 of the affordable housing that has been built is age restricted for the elderly.

Danvers

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

No

What year was the inclusionary/incentive provision adopted?

Have affordable units been developed through this zoning mechanism?

Dedham

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

No

What year was the inclusionary/incentive provision adopted?

Have affordable units been developed through this zoning mechanism?

Dighton

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

No

What year was the inclusionary/incentive provision adopted?

Have affordable units been developed through this zoning mechanism?

Douglas

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

Yes What follows are excerpts of all of the sections of this town's by-laws that address affordable housing- Accessory apartments, flexible development and assisted living facilities.

Town of Douglas Zoning Bylaw (Adopted 2004)

3.3 ACCESSORY APARTMENTS

3.3.3 Standards

1. The owner(s) of the residence in which the Accessory Apartment is located shall occupy one of the dwelling units.

2. Either the occupants of both units shall be related by blood or marriage, or one of the units shall be occupied by an individual hired to provide medical assistance, or custodial care to one or more individuals in the other unit. In the alternative, the accessory apartment shall be rented at a price affordable to persons or families qualifying as low or moderate income for a period of not less than fifteen (15) years.

The rental price for such apartment shall be affordable for persons or families in the Worcester area earning less than 80% of the median income, as set forth in the applicable guidelines of the Commonwealth's Department of Housing and Community Development.

7.2 FLEXIBLE DEVELOPMENT

7.2.1 Purpose...

8. to promote the development of housing affordable to low, moderate, and median income families; and ...

7.2.2 Definitions

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

1. "Affordable to persons or families qualifying as low income" shall mean affordable to persons in the area under the applicable guidelines of the Commonwealth's Department of Housing and Community Development earning less than 50% of the median income.

2. "Affordable to persons or families qualifying as moderate income" shall mean affordable to persons in the area under the applicable guidelines of the Commonwealth's Department of Housing and Community Development earning more than 50% but less than 80% of the median income.

3. "Affordable Unit" shall mean a dwelling unit reserved for occupancy affordable to persons or families qualifying as low or moderate income. Such dwelling units shall be restricted for a period not less than thirty (30) years and the restriction shall be approved as to form by the Board's legal counsel. The restriction shall contain a right of first refusal upon the transfer of such Affordable Unit in favor of the Town or its designee for a period not less than 120 days after notice thereof.

...

7.2.8 Density Bonus

The Planning Board may award a density bonus to increase the number of dwelling units beyond the Basic Maximum Number. The density bonus for the Flexible Development shall not, in the aggregate, exceed fifty (50%) percent of the Basic Maximum Number. The required Affordable Units shall not be counted as density bonus units. Computations shall be rounded to the lowest number. A density bonus may be awarded in the following circumstances:

1. For each additional ten percent (10%) of the site (over and above the required forty percent) set aside as contiguous open space, a bonus of five (5%) percent of the Basic Maximum Number may be awarded; provided, however, that this density bonus shall not exceed 25% of the Basic Maximum Number.

2. For every two (2) dwelling units restricted to occupancy by persons over the age of fiftyfive,

one (1) dwelling unit may be added as a density bonus; provided, however, that this density bonus shall not exceed 20% of the Basic Maximum Number.

3. For each transfer lot, as defined in Section 10.0, two (2) dwelling units may be added as a density bonus; provided, however, that this density bonus shall not exceed 20% of the Basic Maximum Number.

4. For the construction of active recreation facilities that are available for public use, one (1) dwelling unit may be added per two (2) acres of recreation land or per two thousand five hundred (2,500) feet of trail meeting Planning Board Approval; however, this density bonus shall not exceed twenty percent (20%) of the Basic Maximum Number. The Planning Board shall establish minimum criteria for said recreation land and trails.

5. A density bonus may be permitted when the proposed subdivision provides permanently affordable housing opportunities, whether within the Open Space Residential Subdivision or elsewhere in Douglas. When located within the Open Space Residential Subdivision, affordable units shall be developed concurrently with the market rate units. For each affordable dwelling unit provided under this section, one additional dwelling unit may be permitted. For Open Space Residential Subdivisions with individual lots for each dwelling unit or structure, the increase in dwelling units shall correspond with an increase in the number of lots otherwise allowed to be created in the subdivision. A density bonus may be permitted when the proposed subdivision provides for public access to open space areas within the subdivision. For every five (5) acres of land that is donated to the municipality and open to public use, one additional building lot may be permitted, up to a maximum fifteen percent (15%) increase in the number of building lots beyond the basic maximum number. Open space that is open to public use shall be accessible from a public way and adequate parking shall be provided to meet anticipated demand for the use.

6. A density bonus unit shall be allowed for each contribution made of cash or cash equivalent for public purposes to the Town of Douglas by any developer, such as but not limited to:

- �� Contribution to Douglas Public Library for purchase of books.
- �� Purchase of Douglas Police or Douglas Fire equipment.
- �� Contribution to a Douglas town property to update or renovate public facilities, such as Highway Garage, Skate Park, Sports field, etc.
- �� For scholarships to Douglas High School Graduates.
- �� To repave existing Douglas town roads, correcting drainage problem or other public preservation, purchase of open space or any other public purpose approved by the Planning Board.

The cash or cash equivalent contribution shall be established by the Planning Board which may be amended from time to time and which shall initially be set at an amount equal to cost of a raw lot within the project locus. The maximum number of bonus units through this option is 4 per Flexible Development Project.

7.2.9 Affordable Units

As a condition of the grant of any special permit for a Flexible Development, Affordable Units shall be provided as follows:

1. 10% of the units shall be affordable to persons or families qualifying as low income;
- OR
2. 15% of the units shall be affordable to persons or families qualifying as moderate income. Right of first refusal upon the transfer of such restricted units shall be granted to the local Housing Authority for a period not less than 120 days after notice thereof.

7.3 ASSISTED LIVING FACILITIES...

7.3.2 Definitions

Within this Section 7.3, the following terms shall have the following meanings:
 Affordable Unit: A dwelling unit sold or leased at a price affordable to persons earning not more than 80% of the area median income as determined by the Massachusetts Department of Housing and Community Development. Such units shall be restricted for a period of not less than thirty (30) years.

7.3.10 Affordable Units

Applicants are encouraged to provide affordable units. Such affordable units shall be integrated into the overall development of the ALF so as to prevent the physical segregation of such units. For every affordable unit, the applicant may add an additional two market rate units, provided that in no event shall the total number of units exceed by 20% the number of units/bedrooms prescribed in Section 7.3.7.

What year was the inclusionary/incentive provision adopted?

2004 October 25, 2004.

Have affordable units been developed through this zoning mechanism?

No Planning and Conservation Agent Steve Zisk (11/30/04) said that the town just adopted its inclusionary zoning. He said that the town had had 6% affordable housing but that that number has recently dropped to 5%. He added that they have had 2 recent 40Bs (one was a couple hundred units and the other was for 30 units).

Dover

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

Yes From ordinance.com:

§185-42. Multifamily Residence Districts.

[Amended ATM 5-7-1990 by Art. 16]

The Multifamily Residence District created herein shall be deemed to be an overlay district. The requirements set forth below shall constitute an alternative means of development of any land included within the district, provided that a Special Permit in accordance with this section is granted by the Planning Board. If such a Special Permit is not sought, is not granted or lapses, all requirements of the underlying district shall apply to the land.

A. Purpose. The purpose of the Multifamily Residence District is to:

- (1) Provide for a diversity of housing types and encourage the construction of elderly and affordable housing in Dover.
- (2) Preserve the rural character of the Town despite population growth by encouraging an alternative pattern of land development.
- (3) To plan any multifamily development so as to achieve harmony with neighboring buildings and areas of development and conserve environmental features, woodlands, wetlands, areas of scenic beauty and sites and structures of historical importance.
- (4) Permit the Town to regulate construction of multifamily housing so as to permit economical and efficient installation and maintenance of streets and utilities.
- (5) Promote adherence to superior design and planning standards.

B. Special requirements.

- (1) At least 25% of the units constructed in a Multifamily Residence District shall be affordable. At least 40% of the units shall also be elderly, including any elderly units which are also affordable.
- (2) No multifamily development shall be built within one-half mile of any other such development.
- (3) The total number of dwelling units in a multifamily development shall be limited to the lesser of 4 times the difference between the total number of acres in the tract less the number of acres of wetlands and 40.
- (4) The total number of multifamily dwelling units of any kind erected in the Town shall not exceed 15% of the dwelling units in the Town. Such percentage shall be computed without reference to accessory apartments constructed pursuant to Section 185-43 of this chapter and shall be determined as of the most recent Federal Census, and no permit shall be issued under this chapter if it would cause the number of multifamily dwelling units to exceed such percentage.
- (5) Provision shall be made to ensure that the affordable and elderly units in a Multifamily Residence District shall continue to be used as affordable and elderly units in accordance with the requirements of this chapter.
- (6) Affordable and elderly units shall be integrated into the project in a manner acceptable to the Planning Board.

C. Landscaping requirements.

- (1) Buildings, roads, driveways and parking areas shall be laid out so as to leave undisturbed, as far as possible, the environmental and historical features of the tract, such as natural woodlands, streams, marshes, hill tops, ravines, biological habitats of special interest, views of unusual charm, existing bridle paths, trails and green belt links, and to provide for the convenience and safety of vehicular and pedestrian movement.
- (2) The required fifty-foot setback or buffer area around the perimeter of the development site (see Section 185-17 of this chapter) shall consist, as far as possible, of natural woodland. Grass and mounds shall be approved buffer material, provided that suitable indigenous shrubs and other plant materials are used for screening.
- (3) The applicant shall diligently undertake to prevent the removal of or damage to any tree which is designated for preservation. If it is determined that the applicant has damaged or removed any trees which were designated for preservation, the applicant will be required to compensate for the loss with new plantings.
- (4) Provision shall be made that the open land in a development shall be maintained by the owner or management of the development, by an association of the residents of the dwelling units or by the holder of any easements. If possible, any previously existing trails shall be kept open for limited recreational use by residents of the Town.
- (5) The open land shall be restricted to 1 or more of the uses allowed in the C (Conservancy) or O (Open Space) Districts, except that, subject to the approval of the Board of Health, it may be used for subsurface waste disposal and for the provision of underground utilities.

D. Building and dimensional requirements. In addition to the Dimensional Requirements of Section 185-17 of this chapter, the following requirements shall apply to any project in a Multifamily Residence District:

- (1) There shall be a minimum of 32 feet between buildings.
- (2) There shall be no more than 8 dwelling units in any one building.
- (3) The number of bedrooms shall not exceed 3 per dwelling unit.
- (4) An architectural theme shall be carried out by use of common building materials, color, exterior detailing and roof lines. Rigidity in design shall be avoided by variations in building size, height and location, breaks in roof lines and walls, plantings and building coverage.
- (5) All electric, gas, telephone and water distribution lines shall be placed underground in accordance with the regulations of the Planning Board.
- (6) The size, shape and location of any building must be planned to avoid an overmassing effect and to be appropriate to the terrain on which it is located in order not to be detrimental to the neighborhood or to affect adversely the visual character of the Town.
- (7) Adequate methods shall be provided on the site for waste disposal and for surface and subsurface drainage in accordance with regulations of the Board of Health.
- (8) Elderly units shall be especially designed for the needs of the elderly.

E. Parking and access requirements. There shall be provided a permanent off-street parking area or areas, surface and/or undercover of sufficient size to provide 1.5 car spaces for each dwelling unit, with such additional temporary parking space as may be approved by the Planning Board.

- (1) Design.
 - (a) There shall be no more than 2 means of access, whether by a subdivision way or a driveway, to the development site from any existing public way.
 - (b) Such access points shall be located so as to minimize conflict with traffic on public streets and where good visibility and sight distances are available to observe approaching vehicular traffic.
 - (c) The width of a driveway for one-way traffic shall be not less than 10 feet as measured at its narrowest point. The width of a driveway for 2-way use shall be a minimum of 18 feet and a maximum of 22 feet, as measured at its narrowest point.
 - (d) Each parking space shall contain a minimum of 200 square feet.
 - (e) All paved portions of all parking spaces and maneuvering aisles, with the exception of temporary parking spaces, shall be set back 10 feet from the wall of any building and 50 feet from any private or public way or neighboring lot line, with suitable plantings for screening.
- (2) Construction.
 - (a) All required parking spaces, maneuvering aisles and driveways shall have a durable, dustless, all-weather surface, such as bituminous concrete or cement concrete, and shall provide for a satisfactory disposal of surface water by grading and drainage in such a manner that no surface water shall drain onto any public way or onto any lot in other ownership, and such surfaces shall be well maintained.
 - (b) Parking areas shall be provided with curbing, wheel stops or other devices to prevent motor vehicles from being parked or driven within required setback areas or onto required landscaped open spaces.
 - (3) Lighting. Lighting of parking areas shall be designed to provide sufficient uniform illumination with low glare factor. The mounting heights for the equipment shall be appropriate for the architectural scale of the buildings. All lights shall be arranged and shielded to prevent direct glare from the light source into any street or onto adjacent property.
 - (4) Waiver. The Planning Board may waive any of the above requirements in this Subsection E, as long as the final development plan meets the intent of this Subsection E, if the Board finds that literal enforcement would cause a substantial hardship, or that literal compliance is impractical because of the size, width, depth, shape or grade of the lot.

F. Preliminary and final development plans and Town Meeting vote. In order for land to be zoned for multifamily residence use, the applicant must prepare a preliminary development plan as provided below and must initiate a change in the zoning classification of his land by a two-thirds Town Meeting vote, in accordance with MGL c. 40A, Section 5. If the Town Meeting rezones the land, the applicant must submit to the Planning Board a final development plan, an application for a Special Permit and, if applicable, an application for approval under the Subdivision Control Law, all as provided below. The Planning Board shall be the permit granting authority for the purposes of this section.

(1) Preliminary development plan. The applicant shall submit a preliminary development plan to the Planning Board and the other agencies and officials named in this subsection 120 days prior to the date of the Town Meeting at which the rezoning of the site will be presented. The Planning Board shall consult with the Board of Selectmen, the Board of Health, the Dover Housing Partnership, the Long-Range Planning Committee, the Conservation Commission, the Superintendent of Streets, the Building Inspector and the Council on Aging. The preliminary development plan shall contain a full description of the project, with appropriate plans showing compliance with all requirements and provisions set forth in Subsections A through E and shall include the information and plans required by Subsections F(2)(a) and (d) of this section.

(2) Final development plan and Special Permit. In the event that the Town Meeting rezones the land in question for multifamily residence use, the applicant shall file an application for a Special Permit with the Planning Board, in accordance with Section 185-52 of this chapter. The application shall be accompanied by a final development plan. Copies of such application and the final development plan shall be submitted to the agencies and officials of the Town listed in Subsection F(1) above. The final development plan shall consist of:

(3) Application under Subdivision Control Law. If the final development plan requires approval under the Subdivision Control Law, an application for approval under the Subdivision Control Law and the application for a Special Permit hereunder shall be filed concurrently. To the extent permitted by law, the Planning Board shall consider both applications at the same time, but the applicant must demonstrate compliance with all applicable requirements under the Subdivision Control Law, as well as this chapter.

G. Review and action by Planning Board.

(1) The Planning Board shall hold a public hearing on such application for a Special Permit and final development plan, giving notice of the time and place thereof and of the subject matter in accordance with MGL c. 40A, Section 9.

(2) Failure by any agency listed in Subsection G(1) above to submit a written recommendation to the Planning Board within 45 days of the certified filing date shall indicate approval by such agency.

(3) The Planning Board shall, after the conclusion of such hearing, notify all parties in interest of its decision as provided in MGL c. 40A, Section 9.

(4) The Planning Board shall not grant such a Special Permit, unless it finds that the final development plan is consistent with the preliminary development plan described in Subsection F(1) and is in harmony with the general purposes of this section. The Planning Board may include such conditions and safeguards as it deems appropriate to assure such compliance. Without limiting the foregoing, such conditions and safeguards shall include:

(a) In the discretion of the Planning Board, a requirement that, before commencing any work under the Special Permit, the applicant shall provide security, in the form of a deposit of money or negotiable instruments, a letter of credit or surety bond, sufficient, in the opinion of the Planning Board, to complete the project as authorized by the Special Permit or any severable portion of the project that the Planning Board concludes can be built consistent with the purposes of the Special Permit and this chapter. Such security shall be for the benefit of the Town of Dover. Upon failure by the developer to carry out any obligation or condition of the Special Permit, the Planning Board may, after notice to the applicant and opportunity for hearing, declare the project in default. Thereupon, the Town, to the extent permitted by law, may expend said funds without further appropriation and take all steps necessary to complete the project, or any part thereof that the Planning Board deems to be appropriate and consistent with the purposes of the Special Permit and this chapter and the protection of the neighborhood. Any funds not so used shall be paid to the applicant.

(b) A requirement that any transfer of the development rights granted under the Special Permit to a person or entity other than the applicant shall require the approval of the Planning Board and an appropriate amendment of the Special Permit by the Planning Board, after a hearing in accordance with MGL c. 40A, Section 9, and this chapter; provided, however, that nothing contained herein shall prevent a mortgage of the premises subject to the benefits and obligations of the Special Permit; and provided further that any mortgagee who acquires title to the premises by foreclosure or otherwise, shall have the right to complete the project in accordance with the Special Permit or to sell the land or any part thereof subject to the benefits and obligations of the Special Permit.

(c) A requirement that the affordable and elderly units shall be maintained for such purposes for such period as the Planning Board shall designate; provided that such period shall be at least as long as may be required by any state or federal requirements, and in any event no less than 20 years.

(d) A requirement that as-built drawings shall be filed with the Building Inspector upon completion of each stage of the development.

H. Revision of Special Permit. Any change in the number of dwelling units or in the mix of affordable, elderly and other units and any change in the layout of streets, common driveways or utilities, the location of buildings or other structures or the use or ownership of the common land or a change in any conditions of the Special Permit, other than those specifically exempted by the Planning Board from this subsection, shall require an amendment of the Special Permit by the Planning Board after a hearing in accordance with MGL c. 40A, Section 9, and this chapter.

I. Regulations. The Planning Board may prescribe, from time to time, rules and regulations to supplement the standards and

conditions set forth in this section, provided that:

- (1) Said rules and regulations are not inconsistent with said standards and conditions;
- (2) A copy of said rules and regulations is filed in the office of the Town Clerk; and
- (3) Any amendment or change of said rules and regulations shall not apply to any application for a Special Permit hereunder that shall have been submitted prior to such filing.

J. Enforcement. ***

K. Fees. ***

L. Severability. No section or subsection of this section shall be deemed severable from other sections thereof. In the event that any such section or subsection shall later be invalidated, whether by judicial decree or otherwise, all other provisions contained herein shall become inoperative, except that Special Permits previously issued by the Planning Board hereunder shall remain in effect.

M. Definitions of terms as used in this section. As used in this article, the following terms shall have the meanings indicated:

AFFORDABLE - Any housing subsidized by the federal or state government under any program to assist the construction of low or moderate income housing, as defined in the applicable federal or state statute, including a local initiative program which meets the requirements of 760 Code of Massachusetts Regulations 45.

APPLICANT - The person or persons, entity or entities seeking a Special Permit hereunder. The applicant must own or be the beneficial owner of at least 8 contiguous acres of land included in the proposed development site or have authority to act for such owner(s) or hold an option or contract duly executed by the owner(s) and the applicant giving the latter the right to acquire such land within a period of 30 days following issuance by the Planning Board of a Special Permit.

ELDERLY - Housing for families at least 1 member of which is either handicapped or at least 62 years of age.

WETLANDS :

(1) All land subject to the provisions of MGL c. 131, Sections 40 and 40A, or land included in the C (Conservancy) District or subject to any regulation of the Town of Dover with regard to floodplains, wetlands or aquifer protection.

(2) All land designated as Water Protection Zone I as required by the Massachusetts Department of Environmental Affairs.

(3) Land which is normally submerged during any portion of the year.

What year was the inclusionary/incentive provision adopted?

1990 From ordinance.com:

§185-42. Multifamily Residence Districts.

[Amended ATM 5-7-1990 by Art. 16]

Have affordable units been developed through this zoning mechanism?

No Cindy Amara, Dover Town Planner, 7/6/04, said that builders find it more practical to develop affordable units under 40B than through these provisions in the bylaw.

Dracut

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

Yes Dracut Zoning Bylaw

2.12.00 Intensity of Use (Dimensional Requirements)

2.12.50 Table Of Standard Dimensional Requirements

2.12.60 Dimensional Relief for Affordable Housing

The Planning Board may grant a special permit for the construction of an affordable dwelling unit on a residentially zoned lot having not less than fifty percent (50%) if the otherwise applicable lot area and lot frontage requirements for the specific zone that it is located in subject to the following conditions:

The unit shall be sold at a price affordable to persons in the Lowell Area under the applicable guidelines of the Commonwealth's Department of Housing and Community Development earning not more than 80% of the median income. If the unit is to be

constructed and occupied by the original applicant for the special permit, such applicant shall meet the income guidelines applicable for the sale of such unit and the unit shall be deemed to have a value no greater than the limits established by the Department for resale purposes.

The unit shall be deed restricted in perpetuity as affordable for persons or families in the Lowell area under the applicable guidelines of the Commonwealth's Department of Housing and Community Development earning less than 80% of the median income.

Prior to the sale or any subsequent sale of the unit, deed restrictions complying with the terms set forth above shall be approved as to form by the Board's legal counsel. The lot shall be served by municipal water and sewer.

The structure shall meet the setbacks, side and rear yard requirements for the district.

**Webmasters Note: The previous section has been added as per an update approved at a town meeting held on 11/3/03.

AFFORDABLE TO PERSONS OR FAMILIES QUALIFYING AS LOW INCOME : shall mean affordable to persons in the Dracut area under the applicable guidelines of the Commonwealth's Department of Housing and Community Development earning less than 50% of the median income.

AFFORDABLE TO PERSONS OR FAMILIES QUALIFYING AS MODERATE INCOME : shall mean affordable to persons in the Dracut area under the applicable guidelines of the Commonwealth's Department of Housing and Community Development earning more than 50% but less than 80% of the median income.

AFFORDABLE TO PERSONS OR FAMILIES QUALIFYING AS MEDIAN INCOME : shall mean affordable to persons in the Dracut area under the applicable guidelines of the Commonwealth's Department of Housing and Community Development earning more than 80% but less than 120% of the median income.

2. **OVERLAY DISTRICT.** The Mill Conversion Overlay District (MCOD) is hereby established and shall be construed as an overlay district. Within the MCOD all regulations of the underlying district shall continue to be in full force and effect, except where these regulations supersede such underlying requirements or provide an alternative to such requirements. The MCOD shall consist exclusively of the following properties:

4. **SPECIAL PERMIT REQUIRED.** Within the MCOD, a MCP may be constructed upon the issuance of a special permit by the Planning Board, and upon site plan approval pursuant to the requirements set forth herein.

5. **SPECIAL PERMIT GRANTING AUTHORITY.** The Planning Board shall serve as the special permit granting authority pursuant to this section. An application for a special permit shall be governed by the following rules.

6. **APPLICATION.** Planning Board on forms furnished by the Planning Board in accordance with its regulations. Each such application shall be accompanied, if applicable, by a definitive plan of land pursuant to the provisions of G.L. c.41, ss.810 and 81T as the same may be from time to time amended and the Regulations of the Planning Board and a filing fee determined in accordance with said Regulations. In addition the applicants shall submit:

[...]

9. **AFFORDABLE DWELLING UNITS.**

As a condition of the grant of any special permit for a MCP, a minimum of fifteen (15%) of the total number of dwelling units shall be restricted for a period not less than thirty (30) years in the following manner:

a. 5% of the units shall be affordable to persons or families qualifying as low income; and

b. 5% of the units shall be affordable to persons or families qualifying as moderate income; and

c. 5% of the units shall be affordable to persons or families qualifying as median income.

d. The thirty year restriction shall be approved as to form by legal counsel to the Planning Board, and a right of first refusal upon the transfer of such restricted units shall be granted to the Dracut Housing Authority for a period not less than 120 days after notice thereof.

e. Affordable units shall be integrated into the overall development of the MCP so as to prevent the physical segregation of such units.

f. The Applicant shall be encouraged to seek designation of the units referenced in paragraphs 9a and 9b as affordable units which qualify as part of the subsidized housing inventory as approved and complied by the Department of Housing and Community Development (DHCD). The Planning Board may require that the Applicant affirmatively take steps to utilize the Dracut Housing Authority, a public agency, a non-profit agency, limited dividend organization, or other appropriate entity, and through a Local Initiative Petition or other similar mechanism or program cause application to be made to the DHCD, so as to timely furnish all forms

and information necessary to promote the designation of those units referenced in paragraphs 9a and 9b above as affordable units qualifying as part of the subsidized housing inventory. The Planning Board may require submission of application, forms and appropriate information to the DHCD as a condition of approval.

10. ACTION BY THE PLANNING BOARD

The Planning Board after considering reports from consultants and other Boards and/or Commissions, may grant a special permit for a MCP where it makes the following findings:

- a. The proposed MCP constitutes an appropriate renovation as defined above;
- b. The proposed MCP does not cause substantial detriment to the neighborhood after considering the following potential consequences:
 1. noise, during the construction and operational phases;
 2. pedestrian and vehicular traffic;
 3. environmental harm
 4. visual impact by the character and scale of the proposed structure(s);
 5. other consequences as may be set forth in the Development Impact Statement for the MCP.

What year was the inclusionary/incentive provision adopted?

2003 From ordinance.com:

**Webmasters Note: The previous section has been added as per an update approved at a town meeting held on 11/3/03.

Have affordable units been developed through this zoning mechanism?

Yes Survey received from Dracut on 4/29/05:

Have affordable units been developed through this zoning mechanism?

"Yes"

Dunstable

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

Yes SENIOR RESIDENTIAL MULTIFAMILY DEVELOPMENT:
"(O) Affordable Units. As part of the site plan approval, a minimum of five (5%) percent of the total number of dwelling units shall be restricted for a period not less than thirty (30) years in one or more of the following ways:
a. The units shall be affordable to persons or families qualifying as low income;
b. The units shall be affordable to persons or families qualifying as moderate income; and
c. The units shall be affordable to persons or families qualifying as median income.
The thirty-year restriction shall be approved as to form by legal counsel to the Planning Board. Such affordable units shall be integrated into the overall development of the SRMD so as to prevent the physical segregation of such units. The Applicant shall be encouraged to seek designation of the units referenced in paragraphs a and b, above, as affordable units which qualify as part of the subsidized housing inventory as approved and compiled by the Department of Housing and Community Development (DHCD), or its successor. The Planning Board may require that the Applicant affirmatively take steps to utilize a public agency, a nonprofit agency, limited dividend organization, or other appropriate entity, and through a Local Initiative Petition or other similar mechanism or program, cause application to be made to the DHCD, so as to timely furnish all forms and information necessary to promote the designation of those units referenced in paragraphs a and b, above, as affordable units qualifying as part of the Town's subsidized housing inventory. The Planning Board may require submission of application, forms and appropriate information to the DHCD as a condition of approval."
- Dunstable Zoning Bylaws, Section 6.7.5. (Uses permitted by special permit of the Planning Board, Design Requirements). October 2004 Edition.

MIXED USE DISTRICT:

"Section 23. Mixed Use District.

A. Purposes:

The purposes of the Mixed Use District (MUD) are to:

- a. allow for greater variety and flexibility in development forms;
- b. encourage the development of affordable housing, rental and ownership;
- c. reduce traffic congestion and air pollution by providing opportunities for housing and employment in close proximity;
- d. encourage more compact and efficient developments.

B. General Description:

A "Planned Unit Development for Mixed Uses" shall mean development containing a mixture of residential uses and building types, including single family and multifamily dwellings, and other uses, as listed under the category "Uses Allowed within a Planned Unit Development for Mixed Uses". A Planned Unit Development for Mixed Uses may be allowed by Special Permit of the Planning Board. The Special Permit may allow the development to exceed the normal density requirements for the district to the extent authorized by this Bylaw provided that standards for the provision of affordable housing and other standards specified herein are met.

C. Uses Allowed within a Planned Unit Development for Mixed Uses:

Planned Unit Developments for Mixed Uses shall be permitted in the Mixed Use District only upon issuance of a Special Permit and Site Plan Approval from the Planning Board. In a Planned Unit Development for Mixed Uses, the following uses may be allowed:

1. Two-family dwellings;
2. Townhouses, i.e., multiple single family dwellings connected by one or more walls, provided they meet the requirements of affordable housing, which shall be defined as housing meeting the requirements of Section 6.7.5.(O) of this Bylaw;
3. Multifamily dwellings;
4. Business uses which are permitted in the B-1 district;
5. Senior Center;
6. Affordable housing for the elderly (over 55 years).

D. Density and Dimensional Regulations:

The following density and dimensional requirements shall apply to any project in the MUD, subject to adjusted requirements as stated for projects including affordable housing as defined hereinabove:

1. The minimum area allocation for each dwelling unit shall be twenty thousand (20,000) square feet, subject to a reduction of up to twenty (20%) percent in the discretion of the Planning Board for projects including affordable housing;
2. The minimum total land area for a Planned Unit Development shall be (10) acres subject to a reduction of up to twenty (20%) percent in the discretion of the Planning Board for projects including affordable housing ;
3. There shall be no frontage requirements within a Planned Unit Development, provided that the applicant demonstrates to the Planning Board satisfactory legal access to the premises;
4. Minimum setback, rear and side yard requirements specified in the Table of Dimensional Requirements (Section 11 of this Bylaw) shall pertain only to the periphery of the Planned Unit Development;
5. The maximum number of dwelling units per structure shall not exceed eight (8);
6. Dwellings shall make up a minimum of seventy-five percent (75%) of the floor area of development in a Planned Unit Development; the balance of the area shall be business use;
7. Individual commercial areas shall not exceed one thousand five hundred (1,500) square feet each."

-- Dunstable Zoning Bylaws, Section 23 (Mixed use Distrct). October 2004 Edition.

Recommendation in 2005 Town of Dunstable Planned Production Plan for Affordable Housing

3) Inclusionary Bylaw as Related to Standard Subdivisions

The analysis of building permit trends in Dunstable showed that subdivision activity tends to mirror national economic trends. This is expected in a community with two-acre zoning and relatively high property values. Although subdivision activity has been low in recent years, Dunstable should expect to see increases as the economy accelerates. In anticipation of future subdivision activity, Dunstable should consider the use of inclusionary zoning to help increase the inventory of local affordable housing. When attached exclusively to subdivision activity, an inclusionary bylaw generally requires that a fixed percentage or ratio of affordable housing is provided relative to the market rate stock.

Because subdivisions in Dunstable are not likely to contain large amounts of units owing to the two-acre minimum lot size required in most of the town, this ratio should be small. A reasonable requirement might be, for example, one affordable

unit for every five proposed market rate units. Another example might be a 10% affordability requirement with any fractions of units being rounded up to the nearest integer for developments of five units or more. A well-written affordable housing bylaw will also contain provisions regarding the timing of construction for affordable versus market units and a discussion of re-sale restrictions. Other optional provisions might include those for providing affordable housing "off-site" or those regarding "fees-in-lieu of" affordable housing to a fund specifically designated for generating affordable housing in the community. By way of example, the affordable housing bylaw developed for the Town of Duxbury is attached to this plan.

4) Inclusionary Zoning as Related to Open Space Development

It is important to note that the Town of Dunstable Zoning Bylaw contains provisions for Open Space Development, which may also provide opportunities for inclusionary provisions. Open Space Development (Section 6.6 of the bylaw) is subject to Special Permit approval by the Planning Board and can allow developers to reduce the standard dimensional requirements associated with residential development. These reductions are allowed on several contingencies; most notably that 35% of the site is set aside for open space.

As the community explores the potential use of inclusionary zoning as part of their efforts to increase the stock of affordable housing, the Open Space Development provisions may provide a unique opportunity for the development community.

Dunstable Planned Production - 41 - February 8, 2005

J:\4142 Dunstable_Housing\Reports\Dunstable_Planned_Production.doc

Several studies have shown that Open Space Development, sometimes called "Cluster Development" or "Conservation Design", decrease development costs and create properties that have a higher rate appreciation than those of conventional subdivisions (Belansky, et al., 2000; Lacy, 1990). From a financial standpoint, therefore, Open Space Development creates a higher financial benefit to the Town, the homeowner, and the developer. As developers stand to increase their profits due to lower construction costs, communities have an opportunity to require the inclusion of affordable units without heavy opposition from the development community. Based on these findings, the AHSC will actively pursue the development of inclusionary provisions that would be associated with the existing Open Space Development bylaw. These provisions would be similar to those described above (as related to standard subdivisions), and would require a fixed percentage of units to be set aside as available to households earning below 80% of the HUD Metropolitan Statistical Area median income. Although discussions at public forums and with various Town agencies will ultimately determine the mandatory set-aside value for affordable units, the AHSC supports a base value of 10%. Similar to the SRMD provisions, the Committee will explore the feasibility of providing density bonuses for those proposals that offer beyond 10% affordability.

What year was the inclusionary/incentive provision adopted?

2002 Senior Residential Multifamily Development: May 15, 2002

Mixed Use District: May 10, 2004

Source: Dunstable Zoning Bylaw, "Town of Dunstable Zoning Bylaws Chronology of Events". October 2004 Edition.

Have affordable units been developed through this zoning mechanism?

No E-mail correspondence with Town Engineer Jeffrey Rider via Sheryl Mann, secretary 11/23/04:

No SMRD or MUD developments have been built.
(SMDRD enacted 2002
MUD enacted 2004)

Duxbury

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

Yes 560 INCLUSIONARY HOUSING

560.1 Purpose and Intent

The purpose of this Bylaw is to outline and implement a coherent set of policies and objectives for the development of affordable housing in compliance with the Duxbury Comprehensive Plan, G.L. c. 40B sec. 20-23 and ongoing programs within the Town to promote a reasonable percentage of housing that is affordable to moderate income buyers.

It is intended that the affordable housing units that result from this Bylaw be considered as Local Initiative Program (LIP) dwelling units in compliance with the requirements for the same as specified by the Department of Community Affairs, Division of Housing and Community Development and that said units count toward the Town's requirements under G. L. c. 40B sec. 20-23.

560.2 Definitions

1. Affordable Housing Unit. A dwelling unit that qualifies as a local initiative unit under the Commonwealth's Local Initiative Program and meets the requirements of a subsidized housing unit for purposes of listing in the subsidized housing inventory under G. L. c. 40B Sec. 20-23.

2. Qualified affordable housing unit purchaser. An individual or family with household incomes that do 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).

560.3 Applicability

1. Division of Land. This Bylaw shall apply to the division of land into six (6) or more lots, and shall require a special permit from the Planning Board under Section 530 or Section 540 of the Zoning Bylaw. A special permit shall be required for land divisions under G. L. c. 40A sec. 9 as well as for "conventional" or "grid" divisions allowed by G. L. c. 41 sec. 81-L and sec. 81-U, including those divisions of land that do not require subdivision approval.

2. Multiple Units. This Bylaw shall apply to the construction of six (6) or more dwelling units in accordance with Section 700 of the Zoning Bylaw, whether on one or more contiguous parcels, and shall require a special permit from the Board of Appeals.

560.4 Mandatory Provision of Affordable Units

The Planning Board or Board of Appeals shall, as a condition of approval of any development referred to in Sections 560.3.1 and 560.3.2, require that the applicant for Printed August 10, 2004 54

special permit approval comply with the obligation to provide affordable housing pursuant to this Bylaw and more fully described in Section 560.5.

560.5 Provision of Affordable Units

The Planning Board or Board of Appeals shall deny any application for a special permit for development under Sections 530, 540, and 700, and this section if the applicant for special permit approval does not agree that:

1) At least ten (10) percent of the lots in a division of land or units in a multiple unit development subject to this Bylaw 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.

(a) Constructed or rehabilitated on the locus subject to the special permit;

(b) Constructed or rehabilitated on a locus different than the one subject to the special permit (see Section 560.8);

(c) An applicant may offer, and the Planning Board or Board of Appeals, in concert with the Board of Selectmen, may accept donations of land in fee simple, on or off-site, that the Planning Board or Board of Appeals determines are suitable for the construction of affordable housing units. The value of donated land shall be equal to or greater than the value of the construction or set-aside of the affordable units. The Planning Board or Board of Appeals may require, prior to accepting land as satisfaction of the requirements of this Bylaw, that the applicant submit appraisals of the land in question, as well as other data relevant to the determination of equivalent value;

(d) For non-rental affordable housing units, a cash payment to the Affordable Housing Trust Fund may be made subject to Section 560.11 of this Bylaw. The applicant may offer, and the Planning Board or Board of Appeals may accept, any combination of the Section 560.5.1(a)-(d) 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 Bylaw.

560.6 Provisions Applicable to Affordable Housing Units On- and Off-Site

1. Siting of affordable units – All affordable units constructed or rehabilitated under this Bylaw shall be situated within the development 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 – Where feasible,

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%

Fractions of units shall not be counted.

560.7 Marketing Plan for Affordable Units

Applicants under this Bylaw shall submit a marketing plan or other method approved by the Planning Board or Board of Appeals, to the Planning Board or Board of Appeals for approval, 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 marketing plan must describe how the applicant will accommodate local preference requirements, if any, established by the Board of Selectmen, in a manner that complies with the nondiscrimination in tenant or buyer selection guidelines of the Local Initiative Program.

560.8 Provision of Affordable Housing Units Off-Site

As an alternative to the requirements of Section 560.5.1(a), an applicant subject to the Bylaw may develop, construct or otherwise provide affordable units equivalent to those required by Section 560.5 off-site. All requirements of this Bylaw 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 Planning Board or Board of Appeals as an integral element of the special permit review and approval process.

560.9 Maximum Incomes and Selling Prices: Initial Sale

1. The developer of the housing units or his/her agent shall verify prior to transferring title or executing a lease that each prospective purchaser or renter of an affordable housing unit created under this Bylaw is a household of low or moderate income, as defined by the Commonwealth's Local Initiative Program (LIP). Toward this end:

a) The developer shall engage a qualified certifying agent acceptable to the Planning Board, or to the Board of Appeals for a special permit application pursuant to Section 700 of the Zoning Bylaw, to receive purchase or rental applications, obtain and review documentation concerning sources and amounts of household income, and certify to the Town that all purchasers or renters approved for an affordable unit meet LIP income eligibility requirements.

b) The developer is responsible for making arrangements acceptable to the Planning Board, or to the Board of Appeals for a special permit application pursuant to Section 700 of the Zoning Bylaw, to provide annual certifications to the Town as may be

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required to place and maintain the affordable units on the Commonwealth's Chapter 40B Subsidized Housing Inventory.

2. The maximum allowable purchase price or maximum allowable rent for affordable units created under this Bylaw shall comply with the regulations and guidelines of the Local Initiative Program (LIP).

560.10 Preservation of Affordability; Restrictions on Resale

Each affordable unit created in accordance with this Bylaw 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 to qualified purchasers in the future. The resale controls shall be established through a deed rider or an affordable housing restriction as defined by G.L. c.184, Section 31, recorded at the Plymouth County Registry of Deeds or the Land Court, and shall be in force for as long a period as is lawful. The affordable housing use restriction shall meet the requirements of the Local Initiative Program.

1. Resale price – Sales beyond the initial sale to a qualified affordable income purchaser shall include the initial discount rate between the sale price and the unit's appraised value at the time of resale. This percentage shall be recorded as part of the restriction on the property noted in Section 560.10. For example, if a unit appraised for \$300,000 is sold for \$225,000 as a result of this Bylaw, it has sold for 75% of its appraised value. If, several years later, the appraised value of the unit at the time of proposed resale is \$325,000, the unit may be sold for no more than \$243,750, or 75% of the appraised value of \$325,000.

2. 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, granting, among other things, the Town's right of first refusal for a period not less than the maximum period allowable under guidelines set by the Department of Housing and Community Development for Local Initiative Units as defined by the Local Initiative Program, 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.

3. The Planning Board or Board of Appeals shall require, as a condition for special permit approval under this Bylaw, that the deeds to the affordable housing units contain a restriction against renting or leasing said unit during the period for which the housing unit contains a restriction on affordability.

4. The Planning Board or Board of Appeals shall require, as a condition for special permit approval under this Bylaw, that the applicant comply with the mandatory setbacks and accompanying restrictions on affordability, including the execution of the deed rider noted in Section 560.10. The Zoning Enforcement Officer shall not issue an occupancy permit for any affordable unit until the deed restriction is recorded at the Plymouth County Registry of Deeds or the Land Court.

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560.11 Fees in Lieu of Affordable Housing Units

As an alternative to Section 560.5 (a) through (c), an applicant may contribute a cash payment to the Affordable Housing Trust Fund, to be used for the development of affordable housing by the Town or its designees, in lieu of constructing and offering affordable units within the locus of the proposed development or off-site.

1. Calculation of fees-in-lieu of units. The applicant for development subject to this Bylaw may pay a fee in lieu of the construction of affordable units. For each affordable unit not constructed or provided through one or a combination of the methods specified in 560.5 (a) through (c), the fee shall be an amount equal to the difference between the median sale price for new single-family homes built in Duxbury during the preceding three fiscal years, as determined and reported by the Board of Assessors, and the purchase price of a home that is affordable to a qualified purchaser.

a) For developments of multi-family condominiums, the Planning Board may substitute the median sale price for new condominiums built in Duxbury during the preceding three fiscal years for the median sale price of new single-family homes.

b) The methodology used to determine an affordable purchase price shall comply with Local Initiative Program guidelines in effect at the time of application for a special permit.

c) The assumptions used to determine an affordable purchase price, including but not limited to minimum down payment, mortgage interest rate, term, closing and other costs shall be consistent with first-time homebuyer mortgage products available from commercial lending institutions located in or serving Duxbury at the time of application for a special permit, all in accordance with the Inclusionary Housing Submission Requirements and Procedures Manual adopted by the Planning Board and filed with the Town Clerk.

d) Upon adoption of this bylaw by town meeting, the Planning Board shall prepare and adopt an Inclusionary Housing Submission Requirements and Procedures Manual after holding a public hearing on the same.

2. Schedule of fees in lieu of payments. Fees in lieu of payments shall be paid according to the schedule set forth in Section 560.6 (3), above.

-Town of Duxbury, MA Zoning ByLaws March 2003 (August 10, 2004 printing)

Under cluster zoning:

540.11 Affordable Component

As a condition of the grant of any special permit for a RCC Development containing six (6) or more lots or dwelling units, the Planning Board shall ensure compliance with the provisions of Section 560 ("Inclusionary Housing") of the Zoning Bylaw.

Also for planned developments:

718 INCLUSIONARY HOUSING REQUIREMENTS

The provisions of Section 560 of the Zoning Bylaw shall, so far as applicable, apply to Planned Developments.

What year was the inclusionary/incentive provision adopted?

2003 Town planning director Christine Stickney (10/27/04) said that inclusionary housing zoning was developed in '03-'04.

In the survey received 5/3/05, she marked "originally 2003 - amended in 2004"

Have affordable units been developed through this zoning mechanism?

No Town planning director Christine Stickney (10/27/04) said that the town adopted inclusionary zoning this year but that it has yet to be implemented. She said that in 2003 the town approved an amendment that would prevent developers from donating money (or land, too?) in lieu of developing affordable housing, but in 2004 the town voted to allow developers to donate money to a Trust Fund instead of developing affordable housing. She said that inclusionary housing gets triggered at 6 dwellings and (and certain acreage) and that developers are getting around this by simply building fewer than 6 dwellings and making some of the lots/houses very large.

East Bridgewater

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

No

What year was the inclusionary/incentive provision adopted?

Have affordable units been developed through this zoning mechanism?

Easton

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

No

What year was the inclusionary/incentive provision adopted?

Have affordable units been developed through this zoning mechanism?

Essex

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

No

What year was the inclusionary/incentive provision adopted?

Have affordable units been developed through this zoning mechanism?

Everett

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

No

What year was the inclusionary/incentive provision adopted?

Have affordable units been developed through this zoning mechanism?

Foxborough

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

No

What year was the inclusionary/incentive provision adopted?

Have affordable units been developed through this zoning mechanism?

Framingham

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

Yes From ordinance.com:

J. PLANNED UNIT DEVELOPMENT DISTRICT

1. Purpose and Intent

The purpose and intent of a Planned Unit Development (PUD) District is to allow by special permit from the Planning Board an alternative use and pattern of land development for large tracts of land zoned for manufacturing, light manufacturing or business, by allowing single-family and multi-family clustered residential development and other uses as permitted in this Section while encouraging the conservation of significant open space in the district and providing affordable housing opportunity, all in conformance with the provisions of M.G.L. Chapter 40A, Section 9. The PUD is a flexible zoning tool designed to meet the following public objectives:

d. to provide affordable housing to meet the housing needs of persons of low and moderate income;

[...]

In the PUD, dwelling units should be constructed in appropriate clusters which are harmonious with neighborhood development and will not detract from the ecological and visual qualities of the environment. The overall site design and amenities should enhance the quality of living for the residents of the development and the town generally. Attention shall be given by the Planning Board as to whether the proposed site design, development layout, number, type and design of housing constitutes a suitable development for the neighborhood within which it is to be located.

2. Applicability

The Planned Unit Development District is an overlay district that may be superimposed upon a parcel or contiguous parcels of land having an area of at least fifty (50) acres and located within a "M" Manufacturing, "B" Business, or "M-1" Light Manufacturing, district by a vote of at least two-thirds of an annual or special town meeting. The area to be included within the PUD District may include strips of land not to exceed one-hundred (100) feet in width through any zoning district solely for the purpose of providing access to the parcel from public streets. Any roadway within said access strip shall include suitable plantings or materials to provide a visual buffer between the road and adjacent uses. In the event Town Meeting votes to place such a parcel of land in an overlay PUD District, the applicant thereof may file an application for a special permit with the special permit granting authority in accordance with the requirements of Section III.J.9. of this By-Law. The application for a PUD Special Permit shall include the entire parcel or parcels placed into the PUD District by vote of Town Meeting. The Special Permit Granting Authority shall not accept applications for a special permit under this Section which do not include the entire parcel or parcels of land designated as a PUD District. In the event a PUD Special Permit is issued pursuant to this Section and the rights granted pursuant thereto are exercised by the owner/applicant, no land included within said district may be removed from the provisions of this Section and used in accordance with the underlying zoning district.

3. Definitions

a. Terms Defined

For the purpose of this PUD by-law, the following terms shall have the meanings given in the following clauses:

AFFORDABLE HOUSING UNIT : A housing unit offered for either sale or rental at such terms, conditions and restrictions so as to

be qualified as affordable to persons or families of low or moderate income by the Executive Office of Communities and Development of the Commonwealth of Massachusetts (EOCD). Said units shall be offered for sale or rental by or through one or more of the following: a program administered by the EOCD; the Framingham Housing Authority; a non-profit land trust or limited dividend entity; each such affordable housing unit shall be governed by adequate and enforceable deed restrictions or other agreements acceptable to the Planning Board ensuring the continuing affordability of the unit. Affordable housing units shall be compatible with and nearly indistinguishable from the exterior appearance of the market-rate units in the PUD district and should be located throughout the PUD district.

[...]

b. Terms Not Defined

[...]

4. Basic Requirements

a. Notwithstanding anything contained in this By-Law to the contrary, no building permit shall be issued for, and no person shall undertake, any use or improvement in a PUD District unless an application for a special permit has been prepared for the proposed development in accordance with the requirements of this Section, and unless such special permit has been approved by the Special Granting Authority (SPGA). The SPGA for a special permit granted under this Section shall be the Planning Board.

b. No occupancy permit shall be granted by the Building Commissioner until the Planning Board has given its approval that the development or any phase thereof and any associated off-site improvements conform to the approved application for a special permit under this Section including any conditions imposed by the Planning Board. No temporary occupancy permits shall be granted under this PUD by-law.

c. If a PUD special permit is not applied for within 3 years of the Town Meeting vote to create a PUD overlay zone for a parcel of land, such land shall, after said three years, not be eligible for a PUD special permit. Town Meeting may, by two-thirds vote, extend this time limit.

5. Permitted Uses

No building or structure shall be constructed, used or arranged or designed to be used in any part and no change shall be made in the use of land or premises except for one or more of the following purposes:

a. Single-family detached and attached residences, multifamily residential buildings and congregate housing for the elderly, including a long term health care facility associated therewith. Not less than ten percent (10.00%) of all such housing units, including units for both sale and rental, shall qualify as affordable housing as said term is defined in Section III.J.3. of this By-Law. Each phase of the development shall have approximately ten percent (10%) of its units qualify as affordable, and said affordable units shall be dispersed throughout the development and in various housing types. Not more than twenty percent of the housing units within the PUD District, exclusive of any congregate housing units for the elderly and affordable housing units, shall be rental units. The remainder of the units shall be owner-occupied.

[...]

6. Dimensional and Area Regulations

a. Applicability

[...]

b. Maximum Allowable Density

[...]

7. Open Land Requirements

[...]

8. Design Standards, Off-Street Parking and Loading Requirements

[...]

O. Affordable Housing

1. Purpose and Intent

The purposes of this By-Law provision are to:

a. Ensure that all development or re-development of ten (10) or more dwelling units generates a Minimum of ten percent (10%) affordable housing;

b. Ensure that such housing remains affordable over the long term, and that, to the extent. allowed by law, preference is given to Framingham residents;

c. Maintain an economically integrated community by promoting a mix and distribution of affordable housing opportunities throughout Framingham.

2. Definitions

AFFORDABLE HOUSING UNIT (AHU) - A residential unit that is restricted in its sale, lease or rental to a qualified income-eligible household at specific price limits that qualify such residential unit for inclusion in the Chapter 40B Inventory of Subsidized Housing.

QUALIFIED INCOME-ELIGIBLE HOUSEHOLD - A household with combined incomes that do not exceed 80% of the median income for the Boston Metropolitan Statistical Area, with adjustments for household size, as reported by the most recent information from the United States Department of Housing and Urban Development (HUD), or successor, and/or the Massachusetts Department of Housing and Community Development (DHCD), or successor.

RE-DEVELOPMENT - The creation of ten (10) or more new dwelling units in, or added to, an existing building.

3. Applicability

An Affordable Housing Special Permit under this section shall be required from the Planning Board for all development or re-development of ten (10) or more dwelling units on one or more contiguous parcels, whether such units are proposed under a special permit process pursuant to G.L. c. 40A sec. 9, or proposed pursuant to "the Subdivision Control Law" G.L. c. 41 sec. 81K to 81 GG inclusive, including divisions of land that do not require subdivision approval.

4. Mandatory Provision of Affordable Units

The Planning Board shall require as a condition of approval of any development or re development referred to in Section IV.O.2. that the applicant for special permit approval complies with the obligation to provide affordable housing pursuant to this By-Law as provided below.

a. **Units to be Sold:** The applicant shall provide one AHU for each ten dwelling units to be created and a cash payment for any fractional number of units greater than multiples of ten (10). The cash payment shall be equal to 3% of the actual sales price of each subsequent dwelling unit over the multiple of ten (10) and shall be paid to the Town at the closing of each unit.

For example, a development or re-development of ten (10) dwelling units shall require the provision of 1 AHU; 20 dwelling units shall require 2 AHU's, etc. Sixteen dwelling units shall require 1 AHU and a cash payment of 3% of the sales price of the next six units, which shall be paid to the Town at closing; 24 dwelling units shall require 2 AHU's and a cash payment for the next four units, which shall be paid to the Town at closing.

b. **Units to be Rented:** The Applicant shall provide one AHU for each ten dwelling units to be created and a cash payment for any fractional number of units greater than multiples of ten (10). The cash payment for fractional units shall be one (1) month's anticipated rent of such units to be paid at any time prior to any occupancy permit for more than ten (10) units.

c. **Provision of Extra Qualifying Units:** Provision of AHUs in excess of the requirement of this by-law shall make any cash payment for a fractional unit unnecessary.

d. **Handling of Cash Payments:** Cash payments under this Section IV.O. shall be maintained in a separate account by the Framingham Economic Development and Industrial Corporation. Said funds shall be available only to purchase, develop, construct, or rehabilitate affordable housing units or to assist income-eligible buyers with the, purchase of AHUs in Framingham.

e. **Non-Avoidance by Phasing:** A development shall not be segmented or phased in a manner to avoid compliance with this By-Law. After (insert date of adoption here) the Planning Board shall not approve any application for development or re-development that results in ten (10) or more new dwelling units if the land or parcels of land were held in common ownership (including ownership by related or jointly-controlled persons or entities) and were subdivided or otherwise modified to avoid compliance. Dwelling units shall be considered as part of a single development if located either on a single parcel or contiguous parcels of land that have been in the same common ownership at any time subsequent to the date of adoption of this Section IV.O. Affordable Housing. This By-Law shall be enforceable also against purchasers of land previously held in common ownership with land that received, after the date of adoption of this Section IV.O, approvals or permits for development, to the effect that units developed under such previous development shall be counted toward the calculation of number of units under Sections IV.O.4.a. and IV.O.4.b. herein.

f. **Location of AHUs:** The required AHUs may, with Planning Board approval, be provided by use of the options stated in the following table. All of the required AHU's shall be newly created AHU's.

Option 1 Provide the required AHU on the locus subject to the special permit.

Option 2 If the applicant can demonstrate that building the AHU's on the locus will make the development "uneconomic", they may purchase and rehabilitate or build the AHU's off site but within a residential zoning district which is the same as that of the proposed project

5. Required Characteristics of Affordable Housing Units

a. Site All on-site AHUs constructed or rehabilitated under this By-Law shall be situated within the development so as not to be in less desirable locations than market-rate units in the development and shall, on average, be equally accessible to public amenities, such as open space, as the market-rate units.

b. Design and construction: AHUs within market-rate developments shall be integrated within the development and shall be compatible in exterior design, appearance, construction and quality of materials with the other dwelling units being proposed. AHUs provided under Options 2 shall be compatible with the neighborhood.

c. Rights and Privileges: The owners and tenants of market-rate dwelling units and the owners and tenants of the AHUs shall have the same rights and privileges to access any amenities available in the development.

6. Types of Affordable Housing Units

AHUs may be of the following types: single family dwellings, two-family dwelling units, three family dwelling units, multi-family dwelling units, cluster development dwelling units, mixed-use development dwelling units, planned unit development dwelling units, and such other types of dwelling units as may be allowed in the future and approved pursuant to the Zoning By-Law.

7. Marketing Plan for Affordable Units

Applicants under this By-Law shall submit to the Planning Board a marketing plan or other supporting material for approval by the Department of Planning and Economic Development and the Planning Board. Said marketing plan shall describe how the affordable units will be marketed to potential homebuyers or tenants, and shall include a description of the process to be used for selecting qualified occupants. The marketing plan shall describe how the applicant will accommodate local preference requirements established by the Town, if any, in a manner that complies with the non-discrimination in tenant or buyer selection guidelines of the Local Initiative Program of the Commonwealth or successor program.

8. Affordable Housing Regulations

Pursuant to G.L. c.40A, sec. 9, the Planning Board shall adopt and maintain a set of Affordable Housing Regulations that contain the necessary policies, procedures, and requirements to implement the provisions of this Section IV.O.

9. Restrictions

a. Restrictive documents: To assure their affordability, AHUs shall be rented or sold subject to applicable deed covenants, contractual agreements and other mechanisms, acceptable to the Town and established in accordance with the standards of the Commonwealth's Department of Housing and Community Development (DHCD) or successor or additional programs adopted by the Commonwealth or its agencies, restricting the use and occupancy, rent level, and sales price of such AHUs.

b. Term of Use Restriction: A Use Restriction shall ensure that AHUs created under this section shall remain affordable in perpetuity or for as long a period as is allowed by law. All such restrictive documents shall be enforceable and renewable by the Town pursuant to applicable law.

c. Chapter 40B Inventory of Subsidized Housing: An AHU shall be restricted in its initial and any subsequent sale, lease or rental to a qualified income-eligible household at a specific price limit that will qualify such residential unit for inclusion in the Chapter 40B Inventory of Subsidized Housing.

d. Selection of Eligible Tenants and Homeowners: There shall be a fair and reasonable procedure in compliance with fair housing laws for the selection of tenants for affordable rental units and for the selection of homeowners for affordable homeownership units. The Town of Framingham may contract with a quasi-public, public or private entity, experienced in affordable housing operation, for provision of tenant and homeowner selection services but shall be required to monitor the performance of any private entity providing such services and shall retain final responsibility for ensuring compliance.

e. Income and Asset Limits: For tenants and purchasers household income shall not exceed 80% of area median income based on household size as determined by HUD. Tenants and purchasers shall also be required to demonstrate that total household assets other than income are not so high that a household has no substantial need of a rental unit with a reduced rent or of an ownership unit with a reduced purchase price.

f. Occupancy: The deed covenants for AHUs shall require, whether the unit initially is sold or rented, that the occupant of that unit must be an income-qualified person as defined in this Section IV.O. This provision shall not prohibit a unit initially designated as owner-occupied from being leased, so long as it is a lease qualifying under the provisions hereunder and the occupant is an income-qualified person.

10. Enforcement

a. Loss of Eligibility Status: Nothing in this section shall be construed to permit eviction of a home owner or tenant of an AHU due to loss of his/her eligibility status during the time of ownership or term of lease or rental.

b. Transfer of AHU: The restrictions governing an AHU shall be enforced upon resale, re-rental or renewal of lease of the AHU. For owner-occupied units, the use restriction shall ensure that units may only be resold to income-qualified buyers consistent with the then applicable income limits established by the United States Department of Housing and Urban Development (HUD), or

successor, and/or the Massachusetts Department of Housing and Community Development (DHCD), or successor.

c. All Restrictions Remain in Effect: Nothing in this section shall be construed to permit any deed restriction, covenant, agreement or other mechanism restricting such items as the use and occupancy, rent level, and resale price of AHUs, and the enforcement thereof to expire prior to any maximum limitations set forth by applicable state law. It is intended that the restrictions required herein shall survive, to the limit allowed by law, including, but not limited to, bankruptcy and foreclosure.

d. Timing of commitments: All contractual agreements required hereunder and any documents necessary to insure compliance with this section shall be approved as to content by the Planning Board and Town Counsel prior to the issuance of any occupancy permit for newly constructed, rehabilitated, or rental units.

e. Reporting: The Town shall publicly report annually (1) whether rental units are rented to low or moderate income households at rents not exceeding the maximum rents set forth above, (2) whether ownership units continue to be occupied as the domicile and principal residence of the owner, and (3) in the event of a resale, whether the unit has been resold to a low or moderate income buyer for no more than the maximum permissible resale price and subject to a new or continued Use Restriction. The Department of Housing and Community Development shall be provided a copy of the report. In the event of noncompliance the Town shall take prompt action to restore compliance, including litigation if necessary.

f. Approval of Form and Content of Legal Documents: The project applicant shall prepare all deeds and legal instruments required to comply with Section IV.O. herein, and such documents shall be in a form satisfactory to Town Counsel. The applicant shall reimburse the Town for the reasonable legal expenses incurred by Town Counsel in reviewing or revising said deed and legal instruments.

g. Timing of Provision of AHUs: As a condition of the issuance of a special permit under this Section, the Planning Board shall establish a time schedule for the provision of the AHUs or payment in relation to the market-rate dwelling units.

h. Recording of Restrictions: The special permit decision and all restrictive covenants required thereunder shall be recorded, as applicable, at the Registry of Deeds or Registry District of the Land Court prior to the endorsement of any subdivision plan for the development and before the issuance of any building permit for the development.

i. Content of Restrictions: Where the Planning Board endorses a subdivision of land that contains tracts of land not divided into building lots, but which land could later trigger the provisions of Section IV.O.4.e. herein, the covenant for such subdivision shall note the potential for the provisions of Section IV.O.4.e. to apply to a later development.

11. Severability

Any determination that a particular provision or set of provisions in this Section IV.O are invalid or unenforceable shall not render ineffective, unenforceable, or inapplicable the remainder of this Section IV.O.

**Webmasters Note: The previous subsection, O., has been added as per an update approved at a town meeting held on 4/27/04.

What year was the inclusionary/incentive provision adopted?

2004

Have affordable units been developed through this zoning mechanism?

No The program is very new.

Franklin

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

Yes Town of Franklin Zoning Bylaw, Section 185-48 (Last Amended 2001).

"(i) Basic senior village bonus. A senior village's base density is defined as two housing units per gross site acre except where noted above. To qualify as a senior village, a proposal shall, at a minimum: (a) set aside 5% of the total number of dwelling units provided on the site as affordable housing as defined in this section; (b) provide for a minimum of 30% of the lot area as permanent, protected open space conforming to the open space standards set forth in this section. The minimum of 30% open space requirement may be waived by the Board if the proposed senior village is within the Commercial I or General Residential V Zoning District and includes the rehabilitation or renovation of a certified, historic or architecturally significant structure for use as senior housing, and (c) to conform with the Design Review Commission guidelines as interpreted by the Design Review Commission and the Board and to conform with the standards of this section. This enhanced base density for senior villages may be further increased according to the provisions below pertaining to: additional affordable housing; additional open space dedication; and rehabilitation of existing buildings.

(ii) Additional affordable housing. In addition to the minimum requirement of 5% on-site affordable housing, a density increase is permitted where the proposal provides onsite or off-site. housing opportunities for low- or moderate-income senior households. For

the purposes of this section, affordable housing shall be defined as dwelling units that are rented or sold to, and occupied by, households earning up to 80% of the median area household income, as such median is defined by the United States Department of Housing and Urban Development (HUD)- Affordable rental units shall be "rent restricted," as such term is defined in the Federal Low-Income Housing Tax Credit Program, Internal Revenue Code Section 42(g)(2), such that rents, including utilities, are set at no more than 30% of the income limit. Affordable units shall, by deed restriction, remain affordable in perpetuity. Affordable units shall be dispersed throughout the senior village and shall be externally indistinguishable from the market rate units. If the affordable units are part of a condominium, the condominium documents shall; at a minimum, ensure that the owners of the affordable units will not be required to pay for capital improvements they cannot afford and that they will have fair and sufficient voting rights. The property owner shall seek referrals for the affordable units from the Franklin Housing Authority and shall submit an annual report to the Franklin Housing Authority, detailing compliance with the affordable housing provisions of the senior village approval. The Franklin Housing Authority shall be responsible for monitoring the long-term affordability of the units and shall report any deviations from these provisions to the Building Inspector and the Board. When an off-site housing provision is proposed, the Board shall require evidence that these units will in fact be constructed within 12 months from the date of approval of the senior village proposal. The amount of density increase shall be calculated as follows:

a. For each affordable housing unit provided under this section, two additional housing units - may be permitted up to the maximum permitted under this section.

b. For each affordable housing unit where, by deed restriction, Franklin residents have first right of refusal, 2.5 housing units may be permitted up to the maximum permitted under this section. The density bonuses above are not to be combined. Under no circumstances shall one affordable unit allow more than 2.5 additional units."

What year was the inclusionary/incentive provision adopted?

2001 The §185-48. Senior Village Overlay District was [Added 5-2-2001 by Bylaw Amendment 01-461](Town of Franklin Zoning Bylaw, Section 185-48 (Last Amended 2001).

Have affordable units been developed through this zoning mechanism?

Freetown

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

No

What year was the inclusionary/incentive provision adopted?

Have affordable units been developed through this zoning mechanism?

Georgetown

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

Yes Georgetown Zoning Bylaw, Chapter 165, last revised 2002

ARTICLE XII Miscellaneous Provisions
Section 165-71. Housing balance.
Added 6-11-1990 ATM, Art. 24 (Amdt. No. 81)]

In order to assure that new residential development being granted special consideration under this chapter will, at minimum, meet its own share of providing for the diversity and balance of housing in Georgetown, the following shall be complied with for all housing developments authorized through special permits or variances:

A. At least ten percent (10%) of the housing units shall be affordable to households having incomes not exceeding eighty percent (80%) of the then-current median income for the Boston Primary Metropolitan Statistical Area, as estimated by the HUD Regional Economics [N.B.: that means household income not exceeding thirty-six thousand dollars (\$36,000.) in fiscal year 1989];

or an alternative effort approved by the special permit granting authority shall be made, determined by that authority to make no less contribution than the above toward meeting the goal of economically balanced development.

B. Affordability.

(1) Continuing affordability shall be assured for at least forty (40) years through means enforceable by the town,

(2) "Affordable" shall mean having a house for rent, excluding utilities, not exceeding thirty percent (30%) of income or having a purchase price affordable at that income under the pricing prevailing underwriting guidelines, given not more than a five-percent down payment.

C. Fractional requirements of five-tenths (0.5) or more shall be rounded to the next highest number, others being rounded down.

ARTICLE XVII Independent Senior Housing
(Added STM 10/23/2000; Approved by AG 1/25/2001)

Section 165-112 MAXIMUM NUMBER DWELLING UNITS PER ISH DEVELOPMENT -

Not more than twenty-five (25) in all districts with the exception of RA where the maximum shall be twelve (12). The SPGA may approve the construction of more than twenty-five units if the applicant designates at least twenty (20%) percent of the total number of units for use as affordable housing dwelling units as defined in Section 165-71, provided that such affordable dwelling units shall also be restricted to occupancy by households having all resident members fifty-five (55) years or older. First priority for occupancy in such affordable units shall be given to Georgetown residents or their immediate relatives and former Georgetown residents by a process agreed to and documented as part of the Special Permit. The applicant must also provide additional open space in an amount to be determined by the SPGA. The SPGA must make a finding that the construction of additional units will not be detrimental to the neighborhood.

[...]

Section 165-128 ELIGIBILITY TO AFFORD

(1) Continuing affordability shall be assured for at least forty (40) years through means enforceable by the town,

(2) "Affordable" shall mean having a house for rent, excluding utilities, not exceeding thirty percent (30%) of income or having a purchase price affordable at that income under the pricing prevailing underwriting guidelines, given not more than a five-percent down payment.

What year was the inclusionary/incentive provision adopted?

1990 Section 165-71. Housing balance: Added 6-11-1990 ATM, Art. 24 (Amdt. No. 81)

Have affordable units been developed through this zoning mechanism?

Yes Jacki Byerley, planner for Georgetown, (12/14/04) states that while mandatory, the "Housing Balance" bylaw does not create much Affordable Housing due to its application to only new construction requiring special permits. Many single and two-family homes have been constructed without special permits, and no affordable units. The affordability component has been most successful under the ISH.

Gloucester

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

Yes City of Gloucester Zoning Ordinance (Adopted 1950, Amended 2002)

Section 5.11 INCLUSIONARY HOUSING REQUIREMENTS

5.11.1 Applicability

These Inclusionary Housing Requirements shall apply to all multi-family residential developments involving 21 or more bedrooms, or 11 or more dwelling units. A development project shall not be segmented to avoid compliance with these requirements.

5.11.2 Requirements

All residential developments subject to this Section shall be required to set aside 10% of the total number of dwelling units provided on the site as affordable housing.

Affordable owner-occupied housing shall be defined as dwelling units having a purchase price of no more than 2 1/2 times 80% of the median income for a family of three in the Salem/Gloucester Standard Metropolitan Statistical Area.

Affordable rental units shall be defined as dwelling units having a monthly rent no greater than 80% of the maximum current rent established by the U.S.Department of Housing and Urban Development for Section 8 rental units.

5.11.3 Conditions

(a) Permanent Affordability

Affordable owner-occupied and rental units provided under this Part shall remain so permanently. The method employed for insuring the permanent affordability of these units shall be developed and implemented by the City's Community Development Department. Such methods may include deed covenants, contractual requirements, transferring ownership of the property to a local land trust, and/or other appropriate arrangements to ensure permanent affordability.

(b) Comparability

Affordable units shall be dispersed throughout the site and shall be indistinguishable from market-rate units except in size, interior finish, fixtures and appliances.

(c) Family Units

Except as otherwise provided by the City Council, affordable units shall contain a minimum of two bedrooms and shall be in every way suitable for family occupancy.

5.11.4 Alternative Requirements

With the approval of the City Council the inclusionary housing requirement may be met through one of the following alternative methods:

(a) Off-Site Location

Location of some or all of the required affordable units on an alternative site or sites suitable for housing use. Affordable off-site units shall be newly created and at least equal in number to the affordable units that would have been provided on-site. Affordable off-site units required by this Section may be located in an existing structure, provided that their construction constitutes a net increase in the number of dwelling units contained in the structures.

(b) Cash Contribution

Cash contribution to the City of Gloucester or its designee, to be used for the sole purpose of providing affordable housing for low and moderate income families. The amount of the cash contribution shall be, for each affordable unit, equal to the cost of erecting a 1600 square foot manufactured home on a foundation and providing a suitable site on which to place it. The contribution shall be placed into a separate fund to be administered by the Community Development Department, and to be used solely for the purpose of increasing the availability and affordability of housing in Gloucester. The contribution shall be made to the city upon, or prior to, the city's issuance of a certificate of occupancy of 50% of the units in the development.

5.11.5 Compliance

(a) Permit Conditions

No major project special permit shall be issued without appropriate restrictions to ensure that the provisions of this Section are made binding upon the applicant.

(b) Performance Bond

Prior to the issuance of a building permit the applicant shall submit a performance bond secured by a deposit of money or negotiable securities. The bond shall be, in the opinion of the City Council, equal to 120% of the cost of constructing the approved development. After the development has been built to the satisfaction of the City Council in accordance with the approved Special Permit, the applicant may request discharge of the bond.

(c) Occupancy Conditions

No certificate of occupancy shall be issued for any market-rate units in a development covered by this Section until all deed covenants, contractual agreements, and/or other documents necessary to ensure compliance by the applicant with the requirements of this Section have been executed.

What year was the inclusionary/incentive provision adopted?

1991 Ellen Preston, Assistant Planner, (11/04) stated that the Inclusionary Zoning ordinance was adopted in 1991.

Have affordable units been developed through this zoning mechanism?

Ellen Preston, Assistant Planner, (11/04) stated that the Inclusionary Zoning ordinance has been unsuccessful, "we haven't had a lot." She believes the reason for this is the 20% requirement. She also stated that Gloucester is currently revamping its Inclusionary Zoning ordinance to require probably somewhere between 10-15%. She hopes to have that done by early 2005.

Grafton

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

No The only mention of inclusionary housing in this town's by-laws is:

Major Residential Development Design Guidelines

5.3.13. m) Provisions for affordable housing, as defined by M. G. L. Chapter 40B, Sections 20 through 23 inclusive, comprising at least 10% of the total number of dwelling units in the project and interspersed throughout the development, and in a manner and through instruments satisfactory to the Planning Board. (T.M. 10-17-94)

Town Planner Wayne Nicholas (11/23/04) confirmed that the town has no inclusionary zoning. He said that it went to vote at one point but that it didn't pass.

What year was the inclusionary/incentive provision adopted?

Have affordable units been developed through this zoning mechanism?

Groton

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

Yes According to Michelle Collette, Planning Administrator, (10/21/04) the inclusionary zoning was established in 1990. Developers initially had the option of donating cash to the town in lieu of including affordable units (see below). Groton found that most developers were paying instead of building affordable units. In 2003, Groton amended its inclusionary zoning to remove the option and make building affordable housing mandatory. The amendment also increased the required amount of affordable housing from 10% to 15%.

Town of Groton Zoning Bylaw, Chapter 218 (Adopted and Amended 1987)

~ 218-26F(1)(f) Affordable housing requirements. For every 10 lots created under the provisions of this subsection, one additional lot, located within the development, shall be made available for a minimum of 30 years via sale, lease or deed restrictions at terms affordable to persons or families qualifying as low or moderate income as defined by the Executive Office of Communities and Development of the commonwealth. Such additional lot shall not count toward the calculation of the basic number of units nor shall such lot count as an incentive lot below. Such lots shall be subject to the approval of the Planning Board and the Board of Health. In lieu of providing the affordable lots, the applicant may negotiate an agreed-upon payment equal to 1.5 times the fair-market value of the applicable number of such lots with the Planning Board in consultation with the Groton Housing Authority. Such lots or lot may contain a single-family, a duplex or a triplex to be agreed upon by the Planning Board and the applicant when the special permit is granted. [Amended 10-6-1994 STM, Art. 16; 4-24-2000 ATM, Art. 36]

(g) Incentive lots. The number of lots may be increased over the basic number of units determined in Subsection C, up to a limit of twenty-percent increase, by utilization of incentive lots created under Subsection G, Transfers.

~ 218-26. Open space residential development. [Amended 4-30-1988 STM, Art. 6; 4-29-1989 ATM, Art. 36; 10-15-1990 STM, Art. 1]

[...]

F. Modification of lot requirements. Any reduction of lot size below 80,000 square feet shall be predicated upon a finding by the Planning Board that such reduction will better promote the objectives set forth in Subsection A than construction on eighty-thousand-square-foot lots. Such a finding shall not be deemed conclusive that the proposal is entitled to a special permit approval pursuant to Subsection H herein.

(1) [Amended 10-6-1994 STM, Art. 16] Flexible development. Any parcel may be divided into lots and such lots may be built upon for a single-family or permitted accessory use under the following alternative requirements rather than those otherwise applicable. The lots or lot created under the provisions of ~ 218-26F(1)(f), Affordable housing requirements, may be built upon for single-family, two-family (duplex) or three-family (triplex) and permitted accessory use:

(a) Lot frontage. The minimum frontage of any lot shall not be less than 100 feet. Lots having reduced area or frontage shall have frontage on the subdivision road and not on an existing street.

(b) Individual lot area. The minimum area of any individual lot shall not be less than 40,000 square feet.

(c) Lot shape. Lots created under these circumstances must be so shaped that they can contain a circle of one-hundred-fifty-foot diameter within which there is no area subject to protection under the Wetlands Protection Act, MGL C. 131, ~ 40, and within which any principal building shall be located.

(d) Setbacks. No principal structure shall be located within 100 feet of an existing street. A buffer of a minimum of 50 feet from the existing street shall be left in its natural state or suitably landscaped to provide adequate screening.

(e) Mandatory open space. A minimum of 25% of the total area of the parcel being developed shall be preserved as open land in accordance with Subsection D, Open space, for all parcels exceeding 20 acres. Land restricted under this provision does not qualify as incentive lots under Subsection F(1)(g) below or under Subsection G, Transfers.

(f) Affordable housing requirements. For every 10 lots created under the provisions of this subsection, one additional lot, located within the development, shall be made available for a minimum of 30 years via sale, lease or deed restrictions at terms affordable to persons or families qualifying as low or moderate income as defined by the Executive Office of Communities and Development of the commonwealth. Such additional lot shall not count toward the calculation of the basic number of units nor shall such lot count as an incentive lot below. Such lots shall be subject to the approval of the Planning Board and the

Board of Health. In lieu of providing the affordable lots, the applicant may negotiate an agreed-upon payment equal to 1.5 times the fair-market value of the applicable number of such lots with the Planning Board in consultation with the Groton Housing Authority. Such lots or lot may contain a single-family, a duplex or a triplex to be agreed upon by the Planning Board and the applicant when the special permit is granted. [Amended 10-6-1994 STM, Art. 16; 4-24-2000 ATM, Art. 36]

(g) Incentive lots. The number of lots may be increased over the basic number of units determined in Subsection C, up to a limit of twenty-percent increase, by utilization of incentive lots created under Subsection G, Transfers.

(2) Cluster development. Any parcel may be divided into lots and such lots may be built upon for residential or permitted accessory use under the following alternative requirements. The Planning Board may authorize modification of lot size, shape, frontage, setbacks and other bulk requirements for lots within an open space residential development, subject to the following limitations:

[...]

(f) Affordable housing requirements. For every 10 dwelling units proposed under the provisions of this subsection, one additional unit, within the development, shall be made available for a minimum of 30 years via sale, lease or deed restrictions at terms affordable to persons or families qualifying as low or moderate income as defined by the Executive Office of Communities and Development of the commonwealth. Such additional unit shall not count toward the calculation of the basic number of units. Such units shall be subject to the approval of the Planning Board and the Board of Health. In lieu of providing the affordable units, the applicant may negotiate an agreed-upon payment equal to 1.5 times the fair-market value of the applicable number of such units with the Planning Board in consultation with the Groton Housing Authority. [Amended 10-6-1994 STM, Art. 16; 4-24-2000 ATM, Art. 36]

What year was the inclusionary/incentive provision adopted?

1990 According to Michelle Collette, Planning Administrator, the inclusionary zoning was established in 1990. (10/21/04)

Have affordable units been developed through this zoning mechanism?

Yes According to Michelle Collette, Planning Administrator, (10/21/04) the inclusionary zoning was established in 1990. Developers initially had the option of donating cash to the town in lieu of including affordable units. Groton found that most developers were paying instead of building affordable units. In 2003, Groton amended its inclusionary zoning to remove the option and make building affordable housing mandatory. The amendment also increased the required amount of affordable housing from 10% to 15%.

Before the amendment, there had been 5 recent affordable housing units built: 2 duplexes and 1 unit in a cluster development (where the Housing Authority used money - collected from developers who had chosen to pay the town instead of building affordable housing - to custom build the unit for a handicapped person). Since the 1993 amendment, there have been no developments large enough to activate the inclusionary zoning clause (ten or more).

Groveland

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

Yes Groveland Zoning Bylaw (Adopted 1996)

SECTION 950 AFFORDABLE HOUSING REQUIREMENTS

951. Purpose and Intent:

951.1. to increase and maintain in perpetuity the supply of housing that is available and affordable to low, moderate and upper-moderate income households.

951.2. to prevent the displacement of Groveland residents.

951.3. to outline and implement a set of policies and objectives for the development of affordable housing in compliance with G.L. c. 40B sect. 20-24 and various initiative programs developed by state, county and local government.

951.4. that the affordable housing units that result from this bylaw be considered as Local Initiative Units in compliance with the requirements for the same as specified by the Department of Community Affairs, Division of Housing and Community Development.

952. Definitions:

The following definitions shall apply in this bylaw. Where a term is undefined herein, the definition set forth in the Affordable Housing Guidelines adopted pursuant to this bylaw, if any, shall control. All other undefined terms in this section either be governed by Definitions of this Zoning Bylaw or shall be interpreted in accord with such normal dictionary meaning or customary usage as is appropriate to the context.

952.1. AFFORDABLE HOUSING GUIDELINES : Written policies and criteria, recommended by the Groveland Housing Authority, or their designee, and adopted by the Planning Board, which supplement and serve to aid in the interpretation of this section. They may be revised from time to time without an amendment to the Zoning Bylaw.

952.2. AFFORDABLE HOUSING PLAN means a document that constitutes the applicant's showing of compliance with the requirements of this section.

952.3. LOCAL HOUSING FUND . An account established by: (a) the Town for the specific purpose of creating affordable housing, including use by the Groveland Housing Authority for the purchase of land or units, or the development of new or rehabilitation of existing dwelling units for affordable housing occupants; or (b) a housing trust or community development corporation designated by the Town and created under the laws of the Commonwealth of Massachusetts.

952.4. AFFORDABLE HOUSING UNIT . A dwelling unit available at a cost of no more than 30% of gross household income of households at or below 80% of the Lawrence median income as reported by the U.S. Department of Housing and Urban Development, including units listed under G.L. c.40B sect. 20-24 and the Commonwealth's Local Initiative Program.

952.4.1. Rental units shall be made available at an initial rent that is calculated such that a hypothetical household with 1.5 persons per bedroom and with an income of 80% of median income would be paying 30% of gross income on rent and tenant-paid utilities, unless the occupant has a tenant-based subsidy, in which case the rent may be the amount allowed under the subsidy, provided that the occupant is not paying more than 30% of gross income on rent and tenant-paid utilities.

952.4.2. Sales units shall be made available at a sales price that is calculated such that a hypothetical household with 1.5 persons per bedroom and with an income of 80% of area median income would be paying 30% of gross income towards a mortgage, mortgage insurance, condominium fee and property taxes for a standard thirty-year mortgage at 95% of sales price.

952.5. QUALIFIED AFFORDABLE HOUSING UNIT PURCHASER OR TENANT . An individual or family with household incomes that do not exceed 80% of the median income, with adjustments for household size, as determined by regulations promulgated by the United States Department of Housing and Urban Development (HUD) and the Commonwealth's Local Initiative Program, or any successor federal or state program.

952.6. PROJECT : Any residential or other development, including a cluster development, which results in the construction of new dwelling units, including those set forth in paragraph 3, subparagraph a, b, or c herein. Where the project is a life care facility development, as set forth in paragraph 3, subparagraph c., the term "dwelling unit" shall be construed to mean "assisted living unit".

953. Applicability.

This section shall apply to:

953.1. Division of Land. The division of land into four (4) or more lots shall require a special permit from the special permit granting authority (SPGA). A special permit shall be required for land divisions under G.L. c.40A sect. 9 as well as for "conventional" or "grid" divisions allowed by G.L. c.41 sect. 81-L and sect. 81-U, including those divisions of land that do not require subdivision approval.

953.2. Multiple Units. Any project that results in any net increase of four (4) or more dwelling units, whether by new construction or by the alteration, expansion, reconstruction or change of existing residential or non-residential space, whether on one or more contiguous parcels, shall require a special permit from the SPGA.

953.3. Any life care facility development that includes four (4) or more assisted living units and accompanying services.

953.4. The intentional segmentation of projects designed to avoid the requirements of this bylaw (e.g. subdividing one large tract into two smaller tracts, each of which will contain fewer than 4 units or phasing a development such that each phase will contain fewer than 4 units) is expressly forbidden. Parcels held in common ownership as of the passage of this bylaw cannot later defeat the requirements of this regulation by segmenting the development.

954. Mandatory Provision of Affordable Units:

954.1. The SPGA shall, as a condition of approval of any development referred to in Section 3, require that the applicant for special permit approval comply with the obligation to provide affordable housing pursuant to this bylaw and more fully described in Section 5.

955. Provision of Affordable Units:

955.1. The SPGA shall deny any application for a special permit for development under this bylaw if the applicant for special, permit approval does not comply, at a minimum, with the following requirements for affordable units, except as the provisions of subparagraph, b. below shall apply:

955.2. For projects resulting in a net increase of four (4) to nine (9) dwelling units, the applicant may choose to make a cash payment to the Local Housing Fund based on Section 8 of this bylaw.

955.3. The units in a division of land or multiple unit development subject to this bylaw shall be established as affordable housing units in any one or combination of methods provided for below:

955.3.1. constructed or rehabilitated on the locus subject to the special permit (see Section 956); or

955.3.2. constructed or rehabilitated on a locus different than the one subject to the special permit (see Section 957); or

955.3.3. an equivalent fees-in-lieu-of payment may be made (see Section 958); or

955.3.4. an applicant may offer, and the SPGA may accept, donations of land in fee simple, on or off-site, that the SPGA in its sole discretion determines are suitable for the construction of affordable housing units. The value of donated land shall be equal to or

greater than the value of the construction or set-aside of the affordable units. The SPGA may require, prior to accepting land as satisfaction of the requirements of this bylaw/ordinance, that the applicant submit appraisals of the land in question, as well as other data relevant to the determination of equivalent value.

955.3.5. The applicant may offer, and the SPGA may accept, any combination of the Section 955.3.1 - 955.3.4. 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 zoning bylaw.

956. Provisions Applicable to Affordable Housing Units On- and Off-Site:

956.1. Siting of affordable units. All affordable units constructed or rehabilitated under this bylaw shall be situated within the development 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.

956.2. In determining the total number of affordable units to be constructed or rehabilitated, a fractional unit of 0.4 or more shall be regarded as a whole unit. If an equivalent fee-in-lieu-of payment is to be made the fee shall be a fractional proportion of the fee for a whole unit.

956.3. Affordable units shall be dispersed throughout the project and shall be indistinguishable from market rate units in external appearance. The affordable units shall have the same design, appearance, construction, insulation, mechanical systems, and quality of materials and finishes as market units, except that affordable units with up to two bedrooms may have only one bathroom, affordable units with three bedrooms shall have at least 1.5 bathrooms, and affordable units with four bedrooms shall have at least two bathrooms. Affordable units shall have the same finishes and appliances as the market rate units except where the SPGA specifically approves, in advance, a request for different finishes and/or appliances.

956.4. The affordable units shall contain square footage which is no less than 90% of (1) the average size of market rate units containing the same number of bedrooms, or (2) the following, whichever is the smaller:

1 bedroom: 800 square feet
2 bedrooms: 1000 square feet
3 bedrooms: 1200 square feet
4 bedrooms: 1400 square feet

956.5. Timing of construction or provision of affordable units or lots. Where feasible, 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:

956.6. Local preference. Local preference for 50% of the sales units shall be given to residents of Groveland. Verified proof of current or past residency for at least 12 of the previous 36 months shall satisfy this requirement.

956.7. Marketing Plan for Affordable Units. Applicants under this bylaw shall submit a marketing plan or other method approved by the Town through its local Housing Plan, to the SPGA for its approval, which describes how the affordable units will be marketed to potential home buyers or tenants. This plan shall include a description of the lottery or other process to be used for selecting buyers or tenants.

956.8. Affordability restrictions shall be embodied in applicable deed covenants, restrictive covenant agreements, other contractual agreements, land trust arrangements, and/or other mechanisms designed to ensure compliance with this section.

956.9. Covenants and other documents necessary to ensure compliance with this section shall be executed and, if applicable, recorded prior to and as a condition of the issuance of any building permit or certificate of occupancy, as the SPGA shall deem appropriate.

957. Provision of Affordable Housing Units Off-Site:

957.1. As an alternative to the requirements of Section 6 or 8, an applicant subject to the bylaw may develop, construct or otherwise provide affordable units equivalent to those required by Section 5 off-site. All requirements of this bylaw that apply to on-site provision of affordable units shall also 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.

958. Fees-in-Lieu-of Affordable Housing Unit Provision:

958.1. As an alternative to the requirements of Section 6 or Section 7, an applicant may contribute to the Local Housing Fund to be used for the development of affordable housing in lieu of constructing and offering affordable units within the locus of the proposed development or off-site.

958.1. Calculation of fees-in-lieu-of units. The applicant for development subject to this bylaw may pay fees in lieu of the construction of affordable units. For the purposes of this bylaw, and based on Greater Lawrence region averages, the fee in lieu of the construction or provision of affordable units is determined to be 50% the difference between the median sale price of market rate

unit and the maximum sale price of a comparable affordable dwelling unit, or \$80,000, per unit, whichever is smaller.

958.2. Schedule of fees in lieu of payments. Fees in lieu of unit payments shall be made according to the schedule set forth in Section 956.2., above.

959. Maximum Incomes and Selling Prices: Initial Sale:

959.1. To ensure that only eligible households purchase affordable housing units, the purchaser of a affordable unit shall be required to submit copies of the last three years' federal and state income tax returns and 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 local housing trust, community development corporation, housing authority or other agency as established by the Town; that his/her or their family's annual income level does not exceed the maximum level as established by the Commonwealth's Division of Housing and Community Development, and as may be revised from time to time.

959.1. The maximum housing cost for affordable units created under this bylaw is as established by the Commonwealth's Division of Housing and Community Development, Local Initiative Program or as revised by the Town.

960. Preservation of Affordability; Restrictions on Resale:

960. 1. Each affordable unit created in accordance with this bylaw shall have 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 restriction on the property and shall be in force for a period of fifty (50) years.

960.1.1. Resale price. Sales beyond the initial sale to a qualified affordable income purchaser shall include the initial discount rate between the sale price and the unit's appraised value at the time of resale. This percentage shall be recorded as part of the restriction on the property noted in Section 10.a, above. For example, if a unit appraised for \$100,000 is sold for \$75,000 as a result of this bylaw, it has sold for 75 percent of its appraised value. If, several years later, the appraised value of the unit at the time of proposed resale is \$150,000, the unit may be sold for no more than \$112,500--75 percent of the appraised value of \$150,000.

960.1.2. 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, the municipality's right of first refusal to purchase the property in the event that a subsequent qualified purchaser cannot be located.

960.1.3. The SPGA 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 the execution of the deed rider noted in Section 10.a.2, above. The Building Inspector shall not issue an occupancy permit for any affordable unit until the deed restriction is recorded.

961. Conflict with Other Bylaws/Ordinances:

The provisions of this bylaw shall be considered supplemental of existing zoning bylaws. To the extent that a conflict exists between this bylaw and others, the more restrictive bylaw/ordinance, or provisions therein, shall apply.

962. Review by Special Permit Granting Authority (SPGA):

The Planning Board shall be designated as the SPGA under this bylaw.

963. Severability:

If a court of competent jurisdiction holds any provision of this bylaw invalid, the remainder of the bylaw shall not be affected thereby. The invalidity of any section or sections or parts of any section or sections of this bylaw shall not affect the validity of the remainder of Groveland's zoning bylaw.

**Webmasters Note: The previous section, Section 950, has been added as per an update approved at a town meeting held on 5/19/03.

Researcher obtained information from: Ordinance for Groveland, MA (last updated 5/19/03) at: www.ordinance.com.

Also, incentive included in Conservation Subdivision Design:

SECTION 500 CONSERVATION SUBDIVISION DESIGN BYLAW (CSD)

XII. INCREASE IN PERMISSIBLE DENSITY

The Planning Board may award a density bonus to increase the number of dwelling units beyond the Basic Maximum Number. The density bonus for the CSD shall not, in the aggregate, exceed thirty percent (30)% of the Basic Maximum Number. Computations shall be rounded to the lowest number. A density bonus may be awarded in the following circumstances:

1. For each additional ten percent (10%) of the site (over and above the required 50%) set aside as open space, a bonus of five

percent (5%) of the Basic Maximum Number may be awarded; provided, however, that this density bonus shall not exceed ten percent (10%) of the Basic Maximum Number.

2. For every two (2) dwelling units permanently restricted to occupancy by persons over the age of fifty-five, by a recorded restriction enforceable by the Town, one (1) dwelling unit may be added as a density bonus; provided, however, that this density bonus shall not exceed 10% of the Basic Maximum Number.

3. For every two (2) dwelling units permanently restricted to occupancy by persons or families who qualify as low or moderate income, as those terms are defined for the area by the Commonwealth's Department of Housing and Community Development, by a recorded restriction enforceable by the Town, one (1) dwelling unit may be added as a density bonus; provided, however, that this density bonus shall not exceed 10% of the Basic Maximum Number.

**Webmasters Note: The previous Section has been amended as per an update approved at a town meeting held on 4/29/02.

What year was the inclusionary/incentive provision adopted?

2003 SECTION 950 AFFORDABLE HOUSING REQUIREMENTS

**Webmasters Note: The previous section, Section 950, has been added as per an update approved at a town meeting held on 5/19/03.

Have affordable units been developed through this zoning mechanism?

No ZBA Chairman James Doyle (11/2/04) said that no "inclusionary housing" has been developed in the town. He said that the town has done two 40Bs.

Halifax

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

No

What year was the inclusionary/incentive provision adopted?

Have affordable units been developed through this zoning mechanism?

Hamilton

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

No Town of Hamilton Master Plan, February 2004
Prepared for: Hamilton Planning Board, Citizens' Action Planning Committee
Prepared by:
Community Opportunities Group, Inc.

"Housing affordability. Hamilton has no regulations to combat its most significant threat of large-scale housing development: the comprehensive permit. State practice currently limits a single comprehensive permit to 200 units in a town of Hamilton's size, but one 200-unit development would increase the town's housing base by 7%. Hamilton falls below the Chapter 40B 10% threshold by 203 units. As a result, the town could conceivably be required to accept two 200-unit developments in order to reach 10% – if they were rental developments. To produce 203 affordable homeownership units, the comprehensive permit process could generate several developments with a combined total of 400-800 new homes in Hamilton." (p. 16)

Growth and Change: Hamilton, Massachusetts
Master Plan Phase 1 Report
Produced for the Hamilton Citizens Action Planning Committee
July 2002

Community Opportunities Group, Inc.

Boston Massachusetts

In their 2002 Master Plan, Hamilton discusses the issue of affordable housing. "Hamilton's zoning bylaw does not give local officials any regulatory tools to address affordable housing need. A number of zoning and other techniques to encourage affordable housing development have been used successfully by Massachusetts communities. They include Incentive zoning, . . . , inclusionary zoning, . . . , locally initiated redevelopment of existing properties, . . . , locally initiated or sponsored comprehensive permits, . . . , and the adoption of local policies and guidelines, which taken together, set realistic expectations for developers to meet if they apply for a comprehensive permit on their own." (p. 45)

What year was the inclusionary/incentive provision adopted?

Have affordable units been developed through this zoning mechanism?

Hanover

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

No Ms. Hoffman, Planning Board Secretary, confirmed (7/22/04) that there are no such regulations - affordable units are developed through 40B. Hanover does not have apartment complexes except for one that is restricted to 55 and older.

What year was the inclusionary/incentive provision adopted?

Have affordable units been developed through this zoning mechanism?

Hanson

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

No

What year was the inclusionary/incentive provision adopted?

Have affordable units been developed through this zoning mechanism?

Harvard

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

Yes CODE OF THE TOWN OF HARVARD v2 (Updated 2004)

§ 125-35. Open Space and Conservation - Planned Residential Development (OSC-PRD). [Added 3-29-2003 ATM by Art. 32EN] I. Development incentive.

(1) The Planning Board may authorize an increase in lots or dwelling units up to a maximum of 25% above that allowed under § 125-35H of this Bylaw, provided the following conditions are met:

(a) The applicant proposes a significant increase in open space above 50%, and preserves significant natural resources, in the opinion of Planning Board.

(b) There is permanent preservation of land devoted or set aside for agricultural use or other unique preservation strategy, including preservation of historic structures or barns, or other special features of the built environment.

(If (a) and (b) above are found to be satisfied, in the opinion of Planning Board, it may authorize a 5% increase in applicable base density.)

(c) The applicant proposes public improvements or amenities that result in substantial benefit to the Town and the general public, provided:

[1]There are significant improvements to the environmental quality or condition of the site and its surrounding areas, including a decrease in stormwater runoff from what would otherwise result from a conventional subdivision plan.

[2]There are provisions contributing to off-site public facilities or environmental improvements beyond those necessary to mitigate the impacts of the proposed development.

(If (c) above is found to be satisfied, in the opinion of Planning Board, it may authorize a 5% increase in applicable base density.)

(d)The applicant proposes attached dwellings that include a maximum of two bedrooms per unit, and are developed in the character of a New England Village style of architecture.

(If (d) above is found to be satisfied, in the opinion of Planning Board, it may authorize a 5% increase in applicable base density.)

(e)Housing units for senior citizens and persons aged 55 years and over housing is provided.

(If (e) above is found to be satisfied, in the opinion of Planning Board, it may authorize a 5% increase in applicable base density.)

(f)The applicant sets aside 10% or more of lots or dwelling units on the site for "affordable housing" for purchase or rental by those with households of low or moderate incomes. Such units must count toward the Town's Subsidized Housing Inventory, and be in accordance with the provisions of 760 CMR 45.00, as may be amended. The Planning Board shall review and approve the actual percentage distribution of qualifying low versus moderate income units.

(If (f) above is found to be satisfied, in the opinion of Planning Board, it may authorize a 20% increase in applicable base density.)

(2)Standards for on-site affordable units. Housing units set aside as affordable housing, as described in § 125-35I(1)(f), shall have a gross floor area comparable to market-rate units and shall be integrated into the development and not grouped together. When viewed from the exterior, the affordable units shall be indistinguishable from the market-rate units in the same development. The developer shall provide adequate guarantee, acceptable to the Planning Board, to ensure the continued availability and affordability of the units in perpetuity; such guarantee must include recorded deed restrictions, recorded restrictive covenants relative to equity limitation, or other acceptable forms of guarantees. No more than 80% of the building permits for the market-rate units shall be issued within an OSC-PRD until construction has commenced on all the affordable units; no more than 80% of the certificates of occupancy for the market-rate units shall be issued until all of the certificates of occupancy for the affordable units have been issued.

§ 125-52. Ayer Road Village Special Permit (ARV-SP).

G.Incentives for specific uses.

(1)In reviewing and acting on applications for an ARV-SP and for mixed-use village development special permits pursuant to § 125-13, and in order to provide for flexible zoning requirements in such developments, notwithstanding any provisions of this Bylaw to the contrary, the Planning Board may:

- (a)Permit alternative building siting without regard to a lot width circle.
- (b)Permit more than one structure or main building on a lot.
- (c)Apply alternative building and structure setback requirements, except where lot boundaries abut property in the AR District, where a minimum of a sixty-foot setback shall apply.
- (d)Apply alternative site standards relative to parking, loading and driveways, including the establishment of minimum and maximum parking ratios.
- (e)Apply alternative site standards relative to lighting and signs, including the imposition of more restrictive requirements than those set forth in this Bylaw.

(2)Additionally, in reviewing and acting on applications for special permits issued pursuant to this section for a mixed-use village development, the Planning Board may authorize the following:

- (a)Up to 10% more floor area than allowed under § 125-30B.
- (b)Greater total building size than allowed under § 125-37, Subsection A, provided that no building shall exceed 30,000 square feet of gross floor area.
- (3)The variations enumerated in Subsection G(1) and (2) above may be authorized by the Planning Board upon it finding that the purposes and objectives and the review criteria of this section have been met by the subject ARV-SP development proposal, and that such development, when completed, will result in one or more of the following:
 - (a)Preservation of an agricultural use, natural resources, including but not limited to woodlands, wetlands, streams and/or fields, or land with historic structures or other unique features.
 - (b)Connectivity between adjoining sites, nr provisions for curb-cut reduction, shared access, and shared parking,
 - (c)Inclusion of multifamily use with a set aside of affordable housing units.

What year was the inclusionary/incentive provision adopted?

2003 § 125-35. Open Space and Conservation - Planned Residential Development (OSC-PRD). [Added 3-29-2003 ATM by Art. 32EN]

Have affordable units been developed through this zoning mechanism?

No According to Marie Nader, Planning Board Administrator, (11/2/04) there has been no inclusionary development (just under 40B). Ms. Nader emphasized that this is an area of concern for the town of Harvard. Currently, the town primarily consists of huge, single-family homes.

Haverhill

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

Yes City of Haverhill Zoning Ordinance
Section 255-89.1 Affordable Housing

[Added 6-27-2000 by Doc. 79-J]

A. Statement of Purpose and Definition of "Affordable"

In order to meet the needs of the community for housing serving all income and until such time as 10% of the housing stock of the City of Haverhill determined to be available to households with incomes of 80% or less median income of the Lawrence-Haverhill Primary Metropolitan Statistical Area (PMSA), any new residential development requiring a special permit from either the City Council or the Board of Appeals is required to make available 10% or more of the units for such persons of low and moderate income, or make cash contribution to be designated housing entity (as described in Section D.3).

Definition: For purposes of this section of the Haverhill Zoning Ordinance the term affordable shall be defined as follows:

Affordable rents are defined as those rents as published from time to time by the U.S. Dept of Housing and Urban Development under that agencies HOME program and shall not exceed the Low HOME rent limits for the Lawrence/Haverhill PMSA.

Affordable Sale Price is defined as 50% of the HOME Maximum value limits for Essex County as published from time to time by the Dept. of Housing and Urban Development under that agencies HOME program.

B. Applicability to Multi-family Dwelling Units

Prior to favorable action on an application for a special permit to construct multi-family dwelling units, the following requirements must be met:

1. All new multi-family housing developments are required to provide 10% of their units for occupancy by low and moderate income households.
2. If 15%-25% of the units are set aside for low and moderate income housing units, the City Council may grant a numerical equivalent (i.e. 15% max. density bonus for 15% units for low/mod) density bonus of up to 15-25% more units than normally allowed in applicable zoning district. In no case can the unit density bonus exceed 25%.

In order to accomplish increases in density in multi-family rental developments, the City Council shall determine that public utilities, lot sizes and dimensional requirements are sufficient to accomplish the increases in dwelling unit density in addition to other special permit requirements.

3. All new Cluster Residential Developments or PUD shall provide 10% of the units for handicapped accessibility using adaptable design for construction. [Added 6-27-2000 by Doc. 79-J]

C. Applicability to Cluster Residential or Planned unit development

In the event that the developer of a cluster residential or planned unit development wishes to provide more low and moderate income housing units than required as part of the development he/she may apply to the City Council acting as the Special Permit Granting Authority (SPGA) for a special permit to allow an increase in density ("density bonus"). A density bonus may be granted using the following formula:

1. If 15%-25% of the units are set aside as low and moderate income housing rental units, the City Council may grant a numerical equivalent density bonus of up to 15-25% more units than normally allowed in applicable zoning district. In no case can the unit density bonus exceed 25%.

In order to accomplish increases in density for cluster residential or planned unit development, the City Council shall determine that public utilities, lot sizes and dimensional requirements are sufficient to accomplish the increases in dwelling unit density in addition to other special permit requirements.

Location of Low and Moderate Income Housing Units

The requirement of low and moderate income housing units may be met in one of the following ways. The developer as part of his/her special permit application shall include a proposal to address this requirement. The City Council shall make the final determination of which method is appropriate:

1. The low and moderate income housing units will be constructed on the same site as other units and indistinguishably interspersed throughout the project (except as provided for below). In all cases, the low and moderate income housing units to be provided shall be equal in quality, materials, and character to the market - rate units in development.
2. In lieu of constructing new units or rehabilitating existing units, the developer may make a cash contribution to a designated housing entity or with the approval of the City Council they make a cash donation to the City for the purchase of recreational land. The amount of cash payment shall be determined by the following formula: the proposed average fair market value of all of the proposed dwelling units, as certified by a qualified appraiser (or, if rental dwelling units, an average fair market value established by the Office of the City Assessor), and multiplied by .15. Said payment shall be made prior to the issuance of any building permit(s). In addition to the above method, if a project which is to have 25% or more low and moderate income units, wishes not to construct the units on site, then the developer may build the 25% rental units off site at an acceptable location in the City. [Amended 6-27-2000 by Doc. 79-J]

Rental or Sale of Low and Moderate Income Housing Units that are Constructed

1. In the event that all units in a development are to be rental units, the low and moderate income housing units shall be made available to persons eligible for state or federal rental subsidies and who are on the waiting list of the Haverhill Housing Authority. The units shall remain available for a term of 40 years based on eligibility standards adopted by the Housing Authority.
2. In the event that the units in the units in the development are to be offered for sale, the low and moderate income housing units shall be first offered for sale to the Haverhill Housing Authority at a sales price in conformance with the guidelines of the Haverhill

Housing Partnership posted with the City Clerk. If the Haverhill Housing Authority chooses not to purchase such units, the low and moderate income housing units shall then be offered for sale to any other non profit housing entity or directly to low and moderate income persons.

3. In the event that units are to be offered for sale directly to persons with low or moderate incomes, the guidelines established by the Haverhill Housing Partnership Committee shall apply, and these guidelines shall be posted with the City Clerk.

F. Fractional Share

In determining the number of low and moderate income units to be provided a fractional share of 0.5 or more shall be regarded as a whole unit and a fractional share of 0.4 or less shall require no contribution to satisfy the fractional share.

G. Projects with 6 units or less

Projects with 6 units or less shall provide one unit. If 15%-25% of the units are set aside as low and moderate income housing rental units, the Haverhill Board of Appeals (as SPGA for projects of 6 units or less) may grant a numerical equivalent density bonus of up to 25% more units than normally allowed in applicable zoning district. In no case can the unit density bonus exceed 25%.

H. Timing

If the project is built in phases, a proportionate share of low and moderate income units shall be built in each phase.

I. Designated Housing Entity

Cash payments received under the provisions of this ordinance shall be paid into a Designated Housing Entity, to be established by the City. This entity shall be used, at the discretion of the Mayor, with the approval of the City Council to increase the supply of affordable housing in Haverhill.

What year was the inclusionary/incentive provision adopted?

2000 Section 255-89.1 Affordable Housing
[Added 6-27-2000 by Doc. 79-J]

Have affordable units been developed through this zoning mechanism?

Yes Economic Development and Planning Director Bill Pillsbury said that the City has done a lot with affordable housing and that affordable housing has been a focus in recent years. (11/23/04)

Hingham

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

Yes From ordinance.com:

IV-B Special Requirements to Schedule of Dimensional Requirements

10. In the case of land used for housing the elderly persons of low income, or persons of low and moderate income, pursuant to the provisions of subsection 1.7 of Section III-A, the following provisions shall apply: (a) There shall be no less than three thousand (3,000) square feet of lot area per dwelling unit. (b) No more than forty percent (40%) of the lot area shall be occupied by the buildings. (c) A green yard space, no less than twenty (20) feet wide, shall be maintained open and green with grass, bushes, flowers, or trees, or any combination thereof, along the entire length of each side lot line and rear lot line and (except for driveways) along the entire street frontage, and such green yard space shall not be built upon nor paved nor used for storage or for vehicle parking, but signs and fences not otherwise prohibited by law may be erected and maintained thereon. (d) There shall be a minimum distance of thirty (30) feet between all buildings on such land. (e) There shall be reserved sufficient areas to provide parking spaces for vehicles at the rate of one such space per dwelling unit. So much of said area or areas shall be paved as may be deemed necessary by the Board of Appeals. In making such determination, the Board of Appeals shall give due consideration to the location of the land, the probable number of vehicles parking thereon, the probable age, economic resources, and parking requirements of the occupants of such dwelling units, and such other factors as said Board may deem pertinent in each case. From time to time the Board of Appeals may, upon the petition of the Board of Selectmen, the Building Commissioner or the Planning Board, and after notice and hearing as provided by subsection 3 of Section I-D, determine the necessity for additional paving of such reserved area or areas and may order additional paving in accordance with such determination.

This requirement (10) applies to Res A, Town House in Res D, Res E and Bus A and Bus B.

IV-D Flexible Residential Development (FRD) - Special Permit

LOW OR MODERATE INCOME HOUSING - Dwelling Units restricted for a period of not less than thirty (30) years to occupancy by persons or families who qualify as low or moderate income, as those terms are defined for this area by the Massachusetts Department of Housing and Community Development (DHCD) and which are affordable to such persons in accordance with applicable regulations of DHCD or the Department of Housing and Urban Development For the purpose of this Section IV-D, any Dwelling Unit intended to be considered as Low or Moderate Income Housing shall have the following minimum specifications

7 Density

The total number of Dwelling Units permitted on the site shall not exceed the Conventional Yield, provided that, if the Planning Board makes a finding that the proposed development complies with all of the provisions of this Section IV-D, the total number of Dwelling Units permitted on this site shall be the greater of (i) one hundred thirty five percent (135%) of the Conventional Yield (rounded to the nearest whole number) or (ii) the Conventional Yield plus two (2) The number of Dwelling Units permitted in excess of the Conventional Yield are referred to herein as the "Additional Dwelling Units"

(a) Subject to (d) through (f) below, at least one third (1/3) of the Additional Dwelling Units shall be Low or Moderate Income Housing,

(b) Subject to (d) through (f) below, at least one-third (1/3) of the Additional Dwelling Units shall be Moderately-Sized Homes,

(c) The remaining Additional Dwelling Units shall be referred to herein as "Unrestricted Dwelling Units",

(d) If the total number of Additional Dwelling Units is less than three (3), the first Additional Dwelling Unit shall be designated as Low or Moderate Income Housing and the second Additional Dwelling Unit shall be designated as an Unrestricted Dwelling Unit,

(e) If the total number of Additional Dwelling Units is a number which is not evenly divisible by the number three (3), the number of Additional Dwelling Units represented by the remainder shall be designated as follows (i) if the remainder is one (1), such Additional Dwelling Unit shall be designated a Moderately-Sized Home, and (ii) if the remainder is two (2), the first Additional Dwelling Unit shall be designated as Low or Moderate Income Housing and the second Additional Dwelling Unit shall be designated as either a Moderately-Sized Home or an Unrestricted Dwelling Unit,

(f) The Additional Dwelling Units shall be allocated such that the number of Additional Dwelling Units designated as Unrestricted Dwelling Units shall not exceed the number designated as Low or Moderate Income Housing,

(g) Low or Moderate Income Housing and Moderately-Sized Homes shall not be segregated on the site, and shall be designed in the same architectural style and constructed with building materials comparable to any Unrestricted Dwelling Units constructed on the site,

(h) If the proposed development consists of a mix of Single Family Detached Houses and Town Houses, the Low or Moderate Income Housing and the Moderately-Sized Homes (i) shall be developed with a consistent mix of such Single Family Detached Houses and Town Houses and (ii) must be evenly distributed among the Single Family Detached Houses and the Town Houses constructed on the site In addition, the number of bedrooms in any Town Houses which are designated as Low or Moderate Income Housing shall mirror the number of bedrooms in the remaining Town Houses (for example, if there are two market rate Town Houses, one with two bedrooms and one with three bedrooms, then the corresponding Town Houses designated as Low and Moderate Income Housing shall also contain two bedrooms and three bedrooms, respectively), and

(i) It shall be a condition of the approval of a Definitive Plan that the procedure for the sale or rental of the Low or Moderate Income Housing shall be in writing and approved by the Hingham Housing Authority (or such other board or authority granted jurisdiction over affordable housing units by the Town) prior to the issuance of a building permit for the site To the extent permitted by applicable law, preference shall be given in the sale or rental of Low and Moderate Income Housing units to (i) persons currently residing in the Town for at least 24 consecutive months or (ii) persons who have previously resided in the Town for at least ten (10) years or (in) persons who are currently employed by the Town for at least 24 consecutive months for a minimum of twenty (20) hours per week

What year was the inclusionary/incentive provision adopted?

2003 Mary Jean Shultz informed researcher that in 2003 the flexible development provisions replaced previous inclusionary provisions in the bylaw.

Have affordable units been developed through this zoning mechanism?

Yes According to Mary Shultz, three developments have been built under Hingham's flexible zoning program.

The answer "yes" was confirmed on the survey received from Hingham on 4/25/05.

Holbrook

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

Yes SECTION 10: SPECIAL PROVISIONS
10.1 The following uses may be permitted as designated in Section 7.3 Table of Use Regulation provided they meet the following requirements in addition to any other requirements.

10.2 APARTMENTS, MULTIPLE OR ATTACHED DWELLINGS

10.21 No building or buildings intended for three or more families shall be constructed on a lot having less than two hundred (200) feet frontage.

10.22 A space not less than twenty (20) feet shall be maintained- open with grass, bushes, flowers or trees along each side lot, rear lot line and front lot line except for entrance and exit driveways and such open space shall not be built on, nor paved, nor used for parking.

10.23 No more than four (4) dwelling units shall be constructed per one (1) acre of land area whether such land area is designated as wetlands or not or the land is otherwise undevelopable.

10.24 The manner of sewerage disposal shall be approved in writing by the Board of Health.

10.25 All off-street parking shall be provided at the rear or side of the building for which it is intended to be used. Parking in the front areas of such buildings may be authorized by a Special Permit issued by the Town of Holbrook Planning Board.

10.26 No apartment, multiple, or attached dwelling containing more than four (4) dwelling units shall be constructed unless a Special Permit pursuant to Subsection is issued. For the purposes of this Section, the Town of Holbrook Planning Board shall be considered the Special Permit granting authority.

10.26.1 Special Permit

Purpose and Intent

The purpose of this special provision section is to provide high quality multi-unit housing uses while minimizing the need for municipal infrastructure and services and while preserving open space. Developments created under this Section shall be designed to maximize the use of available public transportation, to minimize vehicular traffic, and to provide opportunity for pedestrian and recreational uses.

Definitions

AGE RESTRICTED UNITS - Units restricted to occupancy by persons fifty-five years of age or older and that are consistent with and in compliance with Senior Housing Laws.

BEDROOM - Any habitable room in a Dwelling Unit other than a living room, dining room, kitchen, utility room, or bathroom.

COUNTABLE UNITS - Units qualifying and countable towards the Commonwealth of Massachusetts mandated minimum affordable housing requirement under Massachusetts General Laws in particular Section 40B ss. 20-23 and the Massachusetts DHCD guidelines. Such units shall be available to groups such as veterans, senior citizens, municipal employees, and others who meet the state income regulations for moderate to low income housing.

DWELLING UNIT - Any room or suite of rooms comprising one complete housekeeping unit with its own cooking and food storage equipment and facilities and its own bathing and toilet facilities wholly within 'such room or suite of rooms.

MULTIPLE UNIT BUILDING - A free standing building with more than four (4) Dwelling Units.

MULTIPLE UNIT DEVELOPMENT - A development consisting of one (1) or more Multiple Unit Buildings located on a single or adjacent parcels of land.

OPEN SPACE - An area left in its natural vegetated state, designated and maintained exclusively for recreational use, or landscaped to the satisfaction of the Holbrook Planning Board and not used for building, parking, or other related purposes.

PRINCIPAL SITE ROADWAY - A Roadway serving the site shall be designed to conform with the roadway and sidewalk standards of the Regulations for Subdivision of Land of the Town of Holbrook and or any other standards of the Town of Holbrook.

SENIOR HOUSING LAWS - Collectively and separately, the Fair Housing Act, 42 USC Section 3607(b), 24 CFR Subtitle B, Ch. 1, Section 100.300 et seq. and G.L. c. 151B, Section 4.

Application Procedures and Fees

Application - An application for a Special Permit for construction under this section shall be submitted to the Planning Board on forms furnished by the Planning Board, accompanied by (a) fees set forth in the rules and regulations of the Holbrook Planning Board (b) the following information and data, and (c) a Development Plan as described below.

a. All of the information required for site plan approval pursuant to Section 10.6.

b. The name(s) and, address(es) of the Applicant and all legal and beneficial owners of the site; copies of all instruments, options, contracts or encumbrances affecting ownership of the development site; and an instrument executed by all persons owning property

within the site consenting to the development of the subject property; as applied for.

- c. A proposed development schedule showing the beginning of construction, the rate of construction and development, including stages, if applicable, and the estimated date of completion.
- d. A narrative report prepared by qualified professionals, detailing the impact of the development on the Town's capacity to furnish services including, but not limited to, roads, water, and sanitation.
- e. Information regarding the number and kind of dwelling units and other structures (including signs) proposed, their location, the number of bedrooms planned, the sale prices anticipated and population projections pertaining thereto.
- f. Areas to be set aside for building structures, parking areas and conservation and recreation easements.
- g. Information pertaining to any organization which the Applicant proposes where the development is to be a condominium development.
- h. Any and all other information that the Planning Board may reasonably require in a form acceptable to it to assist in determining whether the Applicant's proposed development plan meets the objectives of this Section.
- i. A traffic study prepared by a registered engineer showing projected traffic totals at peak and off peak hours at all entrances and exits to the site and covering nearby roadways and intersections that may be affected by the use of the site as identified by the Planning Board.
- j. A Development Plan consisting of a plan showing the proposed uses of all land areas within the relevant Multiple Unit Development. The plan shall show in a general manner:
 - a. The location of proposed buildings;
 - b. The location and dimensions of drives and parking areas;
 - c. The location and characteristics of any common open space;
 - d. Proposed infrastructure;
 - e. Proposed building renderings.

Application and Technical Review Fees

A filing fee and technical review fee shall be paid by the applicant as a part of any application under this Section. Said fees shall be set from time to time and published by the Town of Holbrook Planning Board in accordance with State Law. The technical review fee shall be used to engage professional, technical and/or legal consultants to review an application for a Special Permit. The technical review fee shall be replenished by the applicant when depleted to an amount less than fifty percent (50%) of the original amount determined. Failure to provide or restore any said fees in this section shall result in denial of applications or revocation of any Special Permit(s) granted to the applicant. Unexpended amounts of the technical review fee will be refunded on request to the applicant upon completion of the project and when in compliance with any requirements placed on it. The applicant will be provided with a detailed accounting of all disbursements from the technical review fee account.

Standard and Requirements

The following standards shall be required in order to be eligible for a Special Permit under this Section.

Open Space Requirements - At least forty (40%) percent of the site shall be open space.

Senior Units - A number of units shall be reserved for Age Restricted Units. Said units shall be restricted for occupancy to persons fifty-five (55) years of age or older and shall comply with any and all Senior Housing Laws. Age Restricted Units shall be enforced by deed restriction on the property. If fewer than thirty-five percent (35%) of the total units allowed by the density set forth in Section 10.23 are constructed as Age Restricted Units, then the overall density allowed under Section 10.23 and as defined under Density in this section shall be reduced by the number of Age Restricted Units allowed but not constructed. The purpose of this requirement is to encourage but not mandate the construction of Age Restricted Units by allowing a greater density when units of this type are built.

Public Transportation - For developments consisting of more than fifty (50) units and the majority of said units are located more than one-half (1/2) statute mile from the nearest public transportation connection, the owners of the property may be required to prepare and to implement a Traffic Demand Management Plan. Such Traffic Demand Management Plan may be required to include or to pay reimbursement for shuttle transportation service to the nearest public rail transportation facility during the hours of 6:30 AM to 9:00 PM.

Recreational Opportunity - On site recreational facilities such as, but not limited to, parks, exercise facilities, gymnasiums, walking or bicycle trails shall be constructed and maintained for the use of the residents.

Density - No more than four (4) Dwelling Units shall be constructed per one (1) acre of land space.

Bedrooms - No Dwelling Unit constructed under this Section shall contain greater than two bedrooms.

Countable Units - A minimum of fifteen percent (15%) units constructed shall be qualified as Countable Units. Countable Units shall remain eligible for a minimum of thirty (30) years by deed restriction running with the property. Said Units shall only be counted towards meeting this requirement if they are not counted to meet any other such requirement. The applicant is responsible for all application and certification processes needed to certify these units.

Site Plan Review - The application for approval under this section shall be filed in conjunction with the Site Plan review requirement under Section 10.6 of the Town of Holbrook Zoning By-Law.

Interior Driveways and Roadways - The principal roadway(s) and drives serving the site shall be designed to conform with the standards of the Regulations for Subdivision of Land of the Town of Holbrook and any other standards of the Town of Holbrook. Private ways within the site shall be adequate for intended vehicular and pedestrian traffic and shall be maintained by an association of unit owners or by the applicant.

Refuse Pickup and Roadway Maintenance - The owner or unit owners of a development shall be responsible for the maintenance of (including snow and ice removal) of all roadways within the development, for trash and refuse removal, and maintenance of all recreational and landscape amenities required.

Parking - The Applicant shall provide adequate parking to serve all anticipated uses on the property, with information detailing the method of computation of parking spaces. The number of parking spaces per dwelling unit provided shall be no less than that allowed by the Town of Holbrook Zoning By-Laws Section 11, "Off-Street Parking and Loading Requirements".

Stormwater Management - The stormwater management system shall be designed in accordance with the Subdivision Regulations of the Town of Holbrook Planning Board and the DEP's Stormwater Management Guidelines.

Criteria for Approval

The Planning Board may grant a Special Permit or may grant a Special Permit with Conditions for this use (Multiple Unit Development) under this Section where it makes the following findings and the Planning Board shall also make such further findings as may otherwise be required by this section and may attach such conditions or safeguards or limitations on the grant of the Special Permit as it finds to be appropriate and reasonable to protect the surrounding neighborhood and town.

Findings

- a. The proposed development complies fully with all provisions of this section and all other requirements of the Town of Holbrook Zoning By-Law.
- b. The proposed development complies with the Purposes and Intent of this section.
- c. That the site is suitable for the proposed use.
- d. Adequate access for police, fire, and public safety exists
- e. That the internal roadways and driveways are adequate for the proposed use
- f. That external entrances and exits are sufficient and do not pose a traffic hazard
- g. That the proposed development has incorporated trip reduction measures in order to minimize vehicular trips to and from the site. These measures may include but are not limited to sponsored transportation to regional and local public transit facilities, pedestrian amenities, bicycle and walking paths.
- h. That adequate parking and loading facilities are provided.
- i. The site will be suitably landscaped to protect the character of the neighborhood and adjacent property and the neighborhood.
- j. The proposed use has an adequate method of sewage disposal, source of water and drainage.
- k. That the distances between structures are adequate for public safety and traffic circulation purposes.
- l. That the proposed development makes adequate provisions to insure Age Restricted Units, where applicable, and Countable Units are constructed in accordance with this section and all applicable laws.
- m. The proposed development does not cause detriment to the neighborhood after considering the following potential consequences:
 1. noise, during the construction and operational phases;
 2. pedestrian and vehicular traffic;

- 3. environmental harm;
- 4. visual impact caused by the character and scale of the proposed structure(s).
- 5. makes no detrimental impact on municipal services
- 6. historical character of the neighborhood

Permit Lapse

Special permits issued under this section shall lapse within twenty-four (24) months of Special Permit approval if a substantial use thereof or construction has not begun, except for good cause as determined by the Special Permit Granting Authority.

**Webmasters Note: The previous sections, 10.2 through 10.26.1, have been amended as per an update approved at a town meeting held on 5/17/04.

What year was the inclusionary/incentive provision adopted?

2004 **Webmasters Note: The previous sections, 10.2 through 10.26.1, have been amended as per an update approved at a town meeting held on 5/17/04.

Have affordable units been developed through this zoning mechanism?

No The program is new - 2004.

Holden

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

Yes Zoning Bylaws of the Town of Holden (Adopted 1954, Amended 2004)

"XI.J.3(j) Affordable Housing By law

This section is adopted pursuant to Chapter 40A, Section 9 of the General Laws and as a Local Initiative Program under 760 CMR 45 to encourage various housing types for various ages and income levels and create affordable housing, to help people who have lived and work in the Town of Holden and have been unable to obtain suitable housing at a reasonable price, and to maintain a stable economy by promoting the diversity of income groups who provide necessary and essential services to the community.

The Planning Board may issue a special permit which allows an increase in density of a residential development through a partial relaxation of the area requirement in the Table of Area Regulations in accordance with procedures described below and provided a minimum of 15% of the dwelling units developed on the subject property are to be sold and maintained at affordable prices ("Affordable Units") according to standards described in this by law. The Affordable Units shall be decent, safe and sanitary housing and shall be restricted for occupancy by household of low or moderate income. For purposes of this bylaw, " Low or Moderate Income" shall mean a household income which does not exceed 80% of the area median income for the Town based on household size as determined by the U.S. Department of Housing and Urban Development.

(1) Number of Affordable Units: The number of Affordable Units allowed in excess of dwelling units permitted in the underlying zoning district shall be determined by the Planning Board, pursuant to the project approval requirements of this bylaw. In no case, however, shall the density increase for a project exceed one (1) unit per acre from the density requirements set forth in Section VI Area Regulations. The calculated increase in density will not consider the use of unbuildable land area. Unbuildable land area is considered to be wetlands, area within the 100 year flood plain as represented on the FEMA Maps, and areas with slopes in excess of 15%. The increase in density can be calculated by taking the total lot size and subtracting the unbuildable area, then subtracting an additional 10% of the remaining buildable area to represent any proposed roadways if applicable.

(2) Design Standard: All applications for a special permit hereunder shall include design standards for the proposed development to insure conformity and compatibility among all units. Affordable Units shall be disbursed evenly throughout the development. Other requirements for design shall follow the other requirements of this zoning bylaw. The density controls of this bylaw may be modified upon a finding by the Planning Board that such modification creates no adverse impacts on health, safety, and welfare of the community, and is found to be in the public interest because of the high quality of design that would result, and does not denigrate from the intent of the by law. Applicants must also submit for approval a schedule of construction that provides for the delivery of the Affordable Units concurrent with the delivery of market-rate units.

Architectural drawings of all housing styles must be provided with the application and shall be subject to the approval of the Planning Board.

No more than eight units will be permitted in one building.

All roads, driveway, utilities and drainage facilities within the Affordable Housing Development shall be designed and constructed in conformance with the Town of Holden Subdivision Control Regulations. The Planning Board may waive said rules and regulations if it determines that such action will advance the intent of these regulations.

The minimum required setbacks for the underlying zone will be applicable to the project lot perimeters though a greater buffer area maybe required by the Planning Board.

(3) Long Term Affordability and Criteria: To qualify for a special permit pursuant to this bylaw, the applicant/developer must demonstrate to the satisfaction of the Planning Board that the proposed Affordable Unit(s) satisfy all of the following criteria:

(a) Income and Asset Limits: For tenants and purchasers household income shall not exceed 80% of median income for the Town based on household size as determined by the Massachusetts Department of Housing and Community Development. For tenants of rental housing and purchasers of ownership housing there shall be reasonable household asset limits; asset limits shall not be so high that a household has no substantial need of a rental unit with a reduced rent or of an ownership unit with a reduced purchase price.

(b) Affordability of Rental Units: Monthly rents payable by a household shall not exceed 30% of the monthly income of a household earning 80% of median income for the Town based on household size. If services are included in the month rent (e.g. assisted living projects), and monthly rent exceeds the limit set forth in the previous sentence, the services must be clearly defined and sufficiently comprehensive to justify the additional percentage of household income that must be devoted to rent. In the event a unit receives a state, federal or local subsidy, maximum rent maybe as provided in the rent subsidy program so long as the tenant share of rent does not exceed the maximum set herein as determined by the Massachusetts Department of Housing and Community Development

(c) Affordability of Ownership Units: Initial purchase prices and resale prices shall be established so that households are not required to spend more than 30% of the income of a household earning 80% of area median income for annual debt service on a mortgage (at 30-year fixed-interest rates at the time of initial sale), taxes, insurance and condominium or homeowners fees with no more than five percent (5%) down-payment, including any required entrance deposit.

(d) Use Restriction: there shall be a Use Restriction imposed upon the title to every Affordable Unit at the time of initial sale of the unit. For Rental Housing, the developer shall covenant to the Town, as a condition of the special permit, that it will operate and manage the Affordable units in accordance with the provision of this bylaw and shall provide for effective monitoring, administration and enforcement during the term of affordability: The Use Restriction imposed shall include the conditions of the Special Permit, if any, as well as the following: (i) a local public or quasi-public entity, such as the Holden Housing Authority, must be a holder of the restriction with the right and the obligation to enforce it during the term of affordability; (ii) the restriction must provide for effective monitoring, and enforcement by the local or quasi-public holder which may enter into a contract for monitoring services with a private entity experienced in affordable housing operation, but which retains final responsibility for ensuring compliance with the restriction; (iii) the restriction shall provide for selection of eligible tenants of rental units or owners of ownership units in a fair and reasonable manner in compliance with fair housing laws, and such tenants and owners shall be required to occupy the units as their domiciles and principal residences; (iv) absent demonstrable need for a shorter term of affordability, there shall be a term of perpetuity (provided that the Use Restriction of an Accessory Apartment maybe concurrent with the ownership of the dwelling to which it is accessory).

(e) Nondiscrimination in Tenant or Buyer Selection: There shall be a specific prohibition of discrimination on the basis of race, creed, color, sex, age, handicap, marital status, sexual preference, national origin or any other basis prohibited by laws in the leasing or sale of any Affordable Unit.

(f) Successors in Title Then restrictions imposed pursuant to paragraphs (d) and (e) above shall be recorded/registered in the applicable Registry of Deeds or Registry District and shall run with the land and be binding on all successors in title to the Affordable Unit.

(4) Project Approval Requirements: The Planning Board shall review an application for a special permit pursuant to this bylaw and may approve the special permit if, in the Board's sole discretion:

(a) The Board is satisfied that the applicant has conformed to all guidelines set forth and will produce the Affordable Unit (s) required under this bylaw.

(b) The proposed development site plan is designed to provide a development that is consistent with the existing area and natural features.

(c) The Board makes a finding that the increased density and/or relaxation of the requirements set forth in the Table of Area Regulations does not have a detrimental effect on the character of the neighborhood.

(d) The Board has obtained a determination from the Massachusetts Department of Housing and Community Development or has reason to believe that the Affordable Units to be created by the applicant will count towards the Town's Subsidized Housing Inventory.

**Webmasters Note: The previous subsection, XI.J.3(j), has been added as per an update approved at a town meeting held on 5/17/04."

What year was the inclusionary/incentive provision adopted?

2004 ****Webmasters Note:** The previous subsection, XI.J.3(j), has been added as per an update approved at a town meeting held on 5/17/04.

XI.J.3(j) Affordable Housing By law

Have affordable units been developed through this zoning mechanism?

No The Affordable Housing Bylaw went into effect in May 2004. According to Town Planner Pam Harding, regarding any developments related to affordable housing, "We have an accessory apartment by law which is restricted to relatives. But [there is] nothing else to promote affordable units. We have one development that is currently in the planning stages which is utilizing the new affordable housing by law."

- e-mail communication with Town Planner Pam Harding, 1/3/05

Holliston

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

Yes V-M SPECIAL PERMIT FOR LOW OR MODERATE INCOME HOUSING

(Added May 2001 -ATM, Art.-39)

1. Intent - The purpose of this section is to provide a mechanism for the construction of low cost dwellings to satisfy the needs of the present and future inhabitants for low cost housing through reduction of minimum lot area, frontage and setback requirements upon specific review and the granting of a Special Permit by the Zoning Board of Appeals.

2. Definitions - For the purposes of this section, the following terms shall have the definitions given:

a. AFFORDABLE DWELLING UNIT : A dwelling unit created under this section, which is restricted for low and moderate income households in accordance with the terms of a Special Permit and use restriction.

b. LOW AND MODERATE INCOME HOUSEHOLD : A household with an annual income not exceeding eighty percent (80%) of the median household income for the Boston Metropolitan Area; or a household in similar income group which is eligible for housing assistance under a state or federal housing subsidy program.

c. MEDIAN HOUSEHOLD INCOME : The median household income for the Boston Metropolitan Area, Middlesex County portion, as determined from time to time by the U.S. Department of Housing and Urban Development.

d. USE RESTRICTION : A contract, mortgage agreement, deed restriction, condition of zoning Approval, or other legal instrument which restricts the sale, resale, or rental price and occupancy of an affordable dwelling unit to a resident or residents of Holliston, a former resident or residents of Holliston, or a person or persons employed in the town of Holliston with qualified incomes.

3. Special Permit for Reduction of Lot Area and Frontage: The Zoning Board may grant a Special Permit to allow construction of a single family dwelling unit on a parcel of land in a Residential or Agricultural-Residential zoning district with less than the required minimum lot frontage, area and setbacks, provided that the following criteria are met:

a. The following dimensions in Dist. B Ag-Res and Res Dist. Shall be maintained:

Lot Area 20,000 square feet

Continuous Frontage 80 feet

Front Yard 30 feet

Side Yard 20 feet

Rear Yard 30 feet

b. The following dimensions in Dist. A Ag-Res shall be maintained:

Lot Area 40,000 square feet

Continuous Frontage 110 feet

c. One of the following conditions shall apply:

1. The lot existed as a separate lot of record, not owned in common ownership with any adjacent parcel, as of January 1, 2001.
2. The lot will be created through division of a lot, or group of lots under common Ownership, existing on January 1, 2001, such that the remainder of the original lot will conform to all the requirements of the Zoning by law. Only one such undersized lot may be created from any lot, or from any group of lots under common ownership, existing as of January 1, 2001.
 - d. The affordable dwelling unit permitted by this section shall be restricted for purchase or rent by low or moderate income households, in accordance with the standards set forth in this section.
 - e. All other requirements of Section IV-B and the remainder of the Zoning By-Laws shall be met.
4. Use restriction: Any lot created under this section shall be subject to a use restriction conforming to the following criteria:
 - a. The restriction shall be assured for the longest period allowed by law. However, the Permit Granting Authority may allow for a lesser period.
 - b. The restriction shall be recordable as a condition of deed or mortgage.
 - c. The restriction shall have a legal mechanism for compliance that occurs without Town intervention.
 - d. The restriction shall include a process for verification of compliance.
 - e. The restriction shall ensure that the affordable dwelling unit may only be sold to income-qualified buyers at an affordable price, or leased to income-qualified tenants at affordable rents. The following guidelines shall be used to determine affordability:
 1. Affordable sales price: Not more than two hundred twenty-five percent (225%) of median household income.
 2. Affordable rent: Not more than twenty percent (20%) of median monthly household income.
 3. Adjustment for size of dwelling: Maximum sales price and rents may be adjusted to reflect the size of the dwelling unit by adding ten percent (10%) for each bedroom in excess of three, or by subtracting ten percent (10%) for each bedroom less than three.
 - f. The restriction shall provide that the affordable dwelling unit must be sold or rented on a fair and open basis.
5. Required Findings: Before granting a Special Permit for an affordable dwelling unit under this section, the Zoning Board should make the following findings:
 - a. The proposed affordable dwelling unit will be in harmony with the general purpose and intent of the Zoning By-law.
 - b. The increase in density resulting from the grant of the Special Permit will not adversely affect the surrounding neighborhood.
 - c. The requested reduction in lot area, frontage and setbacks can be accomplished without jeopardizing public health or safety, and without detriment to the environment.
 - d. The period during which the affordable dwelling unit will be restricted is reasonable in relation to the density increase granted.
6. Special Permit Conditions: The Board of Appeals shall impose conditions specifying the affordability and occupancy of the restricted unit, and may impose additional conditions which it deems appropriate in accordance with Section VI-D.

What year was the inclusionary/incentive provision adopted?

2001 V-M SPECIAL PERMIT FOR LOW OR MODERATE INCOME HOUSING
(Added May 2001 -ATM, Art.-39)

Have affordable units been developed through this zoning mechanism?

No According to Holliston Town Planner, Karen Sherman, (7/19/04), no affordable units have been developed through this zoning mechanism.

Hopedale

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

No Hopedale Zoning Bylaw

What year was the inclusionary/incentive provision adopted?

Have affordable units been developed through this zoning mechanism?

Hopkinton

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

Yes The town developed recommendations for inclusionary zoning as part of their Community Development Plan. The proposed wording of the bylaw is pasted below.

"Inclusionary Housing

Amend the Zoning Bylaw as follows:

Add a new Section 210-126.4. Inclusionary Housing

210.126.4. Inclusionary Housing

A) Purpose. The purposes of the inclusionary housing bylaw are to produce high-quality dwelling units affordable to low- or moderate-income households, to encourage the provision of more housing choices in Hopkinton, to promote geographic distribution of affordable housing units throughout the town and avoid over-concentration, to prevent the displacement of low- or moderate-income residents of Hopkinton, and to assist the Town in addressing "local housing need" as defined in G.L. c.40B, Sections 20-23.

B) Definitions

ACCESSIBLE: As applied to the design, construction, or alteration of a dwelling unit, accessible shall mean that the unit is located on an accessible route and when designed, constructed, altered or adapted, it can be approached, entered, and used by individuals with mobility impairments.

AFFORDABLE HOUSING TRUST FUND: A fund account established and operated by the Town for the exclusive purpose of creating or preserving affordable housing opportunities in the Town of Hopkinton.

AFFORDABLE HOUSING UNIT: A dwelling unit that is affordable to and occupied by a low- or moderate-income household, meets the definition of low- or moderate-income housing at 760 CMR.31.02, and is eligible for inclusion in the Chapter 40B Subsidized Housing Inventory through the Local Initiative Program.

AFFORDABLE HOUSING RESTRICTION: A contract, mortgage agreement, deed restriction, or other legal instrument, acceptable in form and substance to the Town of Hopkinton, that effectively restricts occupancy of an affordable housing unit to qualified purchaser or qualified renter, and which provides for administration, monitoring and enforcement of the restriction during the term of affordability. An affordable housing restriction shall run with the land in perpetuity or for the longest period of time allowed by law, so as to be binding on and enforceable against any person claiming an interest in the property. An affordable housing restriction shall be enforceable under the provisions of G.L. c.184, Section 32, and be approved by the Department of Housing and Community Development through the Local Initiative Program.

DWELLING UNIT: A dwelling unit or a unit within an assisted living facility.

HOPKINTON RESIDENT: A Hopkinton Resident includes an individual or family maintaining a primary residence within the Town of Hopkinton; or an individual who is employed by the Town of Hopkinton or by a business establishment located in the Town of Hopkinton at least twenty (20) hour per week; or a parent or guardian with children attending the Hopkinton public schools; or a person who, within the fifteen years preceding application for a Hopkinton affordable housing unit, attended the

Hopkinton public schools. A Hopkinton Resident may also include other individuals identified in a local preference policy adopted by the Hopkinton Board of Selectmen.

LOCAL INITIATIVE PROGRAM: A program administered by the Massachusetts Department of Housing and Community Development (DHCD) pursuant to 760 CMR 45.00 to develop and implement local housing initiatives that produce low- and moderate-income housing.

LOW- OR MODERATE-INCOME HOUSEHOLD: A household with income at or below 80% of area median income, adjusted for household size, for the metropolitan or nonmetropolitan area that includes the Town of Hopkinton as determined annually by the U. S. Department of Housing and Urban Development (HUD).

MAXIMUM AFFORDABLE PURCHASE PRICE: A selling price that will result in a monthly housing cost, including a mortgage payment, property taxes and insurance, of not more than thirty percent (30%) of the monthly gross income of a household earning 70% of area median income, adjusted for household size, and meets the maximum purchase price guidelines of the Local Initiative Program.

MAXIMUM AFFORDABLE RENT: Monthly rent, exclusive of utilities, that does not

exceed 30% of the monthly income of a household earning 70% of area median income, adjusted for household size, except that if the dwelling unit receives a state, federal or local subsidy, the maximum rent may be as allowed by the subsidy program so long as the tenant share of rent does not exceed 30% of the monthly income, and meets the maximum affordable rent guidelines of the Local Initiative Program.

QUALIFIED PURCHASER: A low- or moderate-income household that purchases and occupies an affordable housing unit as the household's principal residence.

QUALIFIED RENTER: A low or moderate-income household that rents and occupies an affordable housing unit as a tenant.

SUBSIDIZED HOUSING INVENTORY: The Department of Housing and Community Development Chapter 40B Subsidized Housing Inventory as provided in 760 CMR 31.04.

C) Applicability

This bylaw applies to all developments involving the creation of six (6) or dwelling units or six (6) or more lots for residential use, or to any division of land of 10 acres or more requiring a special permit under G.L. 40A, Section 9, or to any division of land of 10 acres or more pursuant to G.L. c.41, Section 81-L or 81-U, including a division of land that does not require approval under the Subdivision Control Law. Developments may not be segmented to avoid compliance with this bylaw.

D) Mandatory Provision of Affordable Housing Units

1) The Planning Board or the Board of Appeals shall, as a condition of approval of any development referred to in Section C above, require that the applicant comply with the affordable housing requirements of this bylaw.

2) In any development subject to this bylaw, at least ten (10) percent of the lots in a division of land or ten (10) percent of the dwelling units in a multiple-unit development subject to this bylaw 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 forth.

E) Methods of Providing Affordable Housing Units

The Planning Board or the Board of Appeals, in its discretion, may approve one or more of the following methods, or any combination thereof, for the provision of affordable housing units by a development that is subject to this bylaw.

1) The affordable housing units may be constructed or rehabilitated on the locus of the development.

2) The affordable housing units may be constructed or rehabilitated on a locus different than that of the development. The Planning Board or the Zoning Board of Appeals, in its discretion, may allow a developer of non-rental dwelling units to develop, construct or otherwise provide affordable units equivalent to those required by this bylaw in an off-site location in the Town of Hopkinton. All requirements of this bylaw 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 shall be approved by the Planning Board or Board of Appeals as an integral element of the development review and approval process.

3) A donation of land may be made in lieu of providing affordable housing units. An applicant may offer, and the Planning Board or Board of Appeals may accept, subject to approval of the Board of Selectmen, donations of land in fee simple, on- or off-site, that the Planning Board or Board of Appeals determines are suitable for the construction of affordable housing units. The value of donated land shall be equal to or greater than the value of the construction or set-aside of the affordable units. The Planning Board or Board of Appeals may require, prior to accepting land as satisfaction of the requirements of this Bylaw, that the applicant submit appraisals of the land in question, as well as other data relevant to the determination of equivalent value.

4) An equivalent fee in lieu of units may be made. The Planning Board or the Board of Appeals, in its discretion, may allow a developer of non-rental dwelling units to make a cash payment to the Town through its Affordable Housing Trust Fund for each affordable unit required by Section D. The cash payment, or equivalent value in land or buildings, shall be equal to the difference between the median single family home sale price in Hopkinton for the most recent calendar year and the price of an affordable housing for a qualified purchaser, assuming a household size of 1.49 persons per bedroom rounded to the nearest whole person.

F) General Provisions

1) Affordable dwelling units shall be dispersed throughout the building(s) in a development and shall be comparable to market housing units in terms of location, quality and character, room size, bedroom distribution, and external appearance.

2) The Planning Board or the Zoning Board of Appeals, in its discretion, may require the provision of an accessible unit(s), up to 5% of the total number of units, and may

designate when the unit(s) shall be provided during the construction process.

3) The selection of qualified purchasers or qualified renters shall be carried out under a marketing plan approved by the Planning Board or Board of Appeals. The duration and design of this plan shall reasonably inform all those seeking affordable housing, both within and outside the Town, of the availability of such units.

a) To the extent practicable and allowed by law, Hopkinton residents shall be given preference for 70 percent of the affordable housing units created under this bylaw.

b) Developers may sell affordable homeownership units to the Town of Hopkinton, the Community Housing Task Force, Inc., or to another private nonprofit entity for the purpose of providing affordable housing opportunities, in order that such entity carry out the steps needed to market the affordable housing units and manage the choice of buyers.

G) Timing of Construction

Where feasible, affordable housing units shall be provided coincident to the development of market-rate units, but in no event shall the development of affordable units or payment of fees in lieu of providing affordable units be delayed beyond the schedule below. Fractions of units shall not be counted.

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%

1) Certificates of Occupancy for any market-rate housing units shall be issued at a ratio of Certificates of Occupancy for required affordable housing units or fees paid in lieu of units in accordance with the schedule above.

2) All documents necessary to ensure compliance with this bylaw shall be subject to the review and approval of the Planning Board or the Boards of Appeals, as applicable, and Town Counsel.

H) Preservation of Affordability; Restrictions on Resale

1) An affordable housing unit created in accordance with this bylaw shall be subject to an affordable housing restriction or regulatory agreement that contains limitations on use, resale and rents. The affordable housing restriction or regulatory agreement shall meet the requirements of the Town and the Local Initiative Program, and shall be in force for the maximum period allowed by law.

2) The affordable housing restriction or regulatory agreement shall be enforceable under the provisions of G.L. c.184, Section 32.

3) The Planning Board or Board of Appeals shall require that the applicant comply with the mandatory provision of affordable housing units and accompanying restrictions on affordability, including the execution of the affordable housing restriction or regulatory agreement.

4) The Zoning Enforcement Officer shall not issue a Certificate of Occupancy for any affordable unit until the affordable housing restriction is executed by the developer, the Town and the Department of Housing and Community Development, and recorded at the Middlesex County Registry of Deeds or the Land Court.

I) Severability, Conflict with Other Bylaws

1) To the extent that a conflict exists between this bylaw and other bylaws of the Town of Hopkinton, the more restrictive provisions shall apply.

2) If a court of competent jurisdiction holds any provision of this by-law invalid, the remainder of the by-law shall not be affected thereby. The invalidity of any section or sections, or parts of any section or sections, of this by-law shall not affect the validity of the remaining sections or parts of sections or the other bylaws of the Town of Hopkinton." (p. 15-19)

TOWN OF HOPKINTON

ZONING BYLAW

Chapter 210

ARTICLE XVIII Supplementary Regulations

Section 210-126.2. Duplexes.

A. The intent and purpose of this section is to permit duplexes in the Residence A, Residence B, and Agricultural zoning districts subject to the standards and procedures hereinafter set forth, in order that a range of housing options affordable to all citizens be available in the Town. It is also the intent to assure that the single-family character of the neighborhood will be maintained and that the duplex is designed to enhance and not detract from the appearance and amenities in the surrounding neighborhood.

B. Restrictions.

(1) A special permit may be granted by the Zoning Board of Appeals for the construction of a new duplex.

(2) The Zoning Board of Appeals shall not grant a special permit if, at the time of application the number of two-family dwelling units, including, without limitation, duplexes, two-family houses, and buildings containing accessory family dwelling units in Hopkinton is equal to or more than 5% of the total number of dwelling units in Hopkinton.

(3) There shall be no more than one duplex per lot.

(4) At least one of the duplex units on a lot shall be set aside as permanently affordable and will count toward the 10% statutory goal (c. 40B, S. 20) for affordable housing.

C. Use limitations. There shall be no other living units on the lot upon which a duplex is to be located.

D. Disposal of sewage. Adequate provision shall be made for the disposal of sewage and waste generated by the duplex in accordance with the requirements of the Board of Health and/or the Department of Public Works. Such determination shall be made prior to the application for a special permit, and evidence of same shall be included with such application.

E. Stormwater Management. Adequate provision shall be made for the proper management of stormwater runoff from the lot. Evidence of same shall be included with the above application.

F. Dimensional Requirements. Each lot on which a duplex is proposed shall comply with the following dimensional requirements:

Residence A District: All requirements set forth in §210-8, Residence B (RB) District

Residence B District: All requirements set forth in §210-8, Residence B (RB) District

Agricultural District: All requirements set forth in §210-14, Agricultural (A) District

G. Ingress, egress, access. Adequate provision, as determined by the Director of Municipal Inspections, shall be provided for separate ingress from and egress to the outside of each unit.

H. Documentation. The Zoning Board of Appeals must determine that the construction and occupancy of each duplex unit shall meet the requirements of § 210-152 of this chapter.

I. Area limitation. No duplex unit shall exceed a maximum of 1,800 square feet in floor area. Such area shall not include attached or detached garages, attics, or basements. After construction of an approved duplex: in the event that any proposed addition or alteration to any building on the lot will result in any change to the exterior of the building which will be visible from other lots or roadways, and a building permit for such addition or alteration is required, the following procedures must be complied with: 1) If the proposed addition or alteration will result in no increase in floor area - the applicant must submit a plan to the Design Review Board for review and recommendation prior to the issuance of a building permit; 2) If the proposed addition or alteration will result in an increase in floor area - the applicant must submit an application to the Zoning Board of Appeals to modify the special permit.

J. Plans. Floor plans, elevation drawings of each side of any proposed building, and a certified site plan showing the proposed buildings on the lot and their relationship to other structures and premises within 200 feet of the lot, shall be filed with the application for a special permit.

K. Parking. Provisions for off-street parking of residents and guests of both units shall be provided in such a manner as is consistent with the character of the neighborhood, as determined by the Zoning Board of Appeals. The Zoning Board of Appeals shall seek the advice of the Director of Municipal Inspections and the Design Review Board in such review. In no case shall the number of parking spaces on the lot be less than 2 per unit, including spaces inside garages. Unless the Zoning Board of Appeals specifically waives the following requirement, the duplex shall be served with two separate driveways, one for each unit.

L. Design Review. The Zoning Board of Appeals shall forward a copy of the submission materials to the Design Review Board for review and recommendation. The Design Review Board shall review the exterior design of the proposed buildings, parking, driveways, and landscaping and screening, to determine whether the proposed lot development will be compatible with and not detract from the surrounding neighborhood. Such review shall include consideration of the Design Guidelines adopted pursuant to Section 210-145 of this Chapter.

M. Special Permit. No building permit shall be issued in accordance with the special permit issued under this section until the special permit has been recorded in the Registry of Deeds by the applicant and evidence of such recording has been submitted to the Director of Municipal Inspections.

N. Separate Conveyance. The ownership of each duplex unit may be conveyed or otherwise transferred separately from the other unit. The lot on which the duplex is located shall be held in common ownership. Documents describing the proposed form of ownership and maintenance agreements shall be submitted to the Zoning Board of Appeals for its review and approval with the application.

O. Definition. A duplex is a building which is situated on a single lot and contains two dwelling units which share a common wall or ceiling/floor but are entirely and permanently separated from each other by an unpierced wall extending from the ground to the roof or an unpierced ceiling/floor extending to all exterior walls, except that the building may have a common stairwell exterior to both

dwelling units.

P. Special Provisions for Low or Moderate Income Units.

(1) In order to facilitate the creation of affordable housing units in Hopkinton which will count toward the 10% statutory goal (G.L. c.40B, S: 20), all applicants for a special permit for one or both duplex units to be occupied by a low or moderate income family shall be furnished with copies of the regulations and guidelines of the Massachusetts Department of Housing and Community Development for approval of such unit as an affordable housing unit for purposes of the statutory goal. Such regulations and guidelines shall include those of the Local Initiative Program and any other program designed to promote the creation of certifiable affordable housing units. Prior to issuance of a special permit for a low or moderate income unit which is to be occupied and maintained in accordance with any such program, the Board of Selectmen shall make application to the Department of Housing and Community Development for certification of the unit as an affordable housing unit includable in the Town's inventory of low and moderate income housing for the purposes of G.L. c.40B. In the event such application is not approved the special permit shall not be issued. The affordable units shall contain deed restrictions which require that the unit remain affordable in perpetuity. The Zoning Board of Appeals may impose permit conditions to ensure that the unit remains affordable, including conditions relating to long term monitoring and rights of first refusal.

(2) No building permit shall be issued until certification has been received by the Town of Hopkinton that at least one of the units shall constitute an affordable unit pursuant to G.L.c. 40B.

(3) In the event that such certification is not received, the units shall not be constructed.

**Webmasters Note: The previous section 210-126.2 has been added as per Case No. 2047 from town meeting dated 5/6/02.

Appendix A - Hopkinton Conservation Commission Procedures Regarding Comprehensive Permit Applications

The Hopkinton Conservation Commission, upon request from the Zoning Board of Appeals, shall review plans provided by the ZBA or by an Applicant for a Comprehensive Permit under the State Chapter 40B Section 20-23 process. The following information and guidelines shall form the basis for reviews by the Commission.

The Comprehensive Permit process does not set aside local Bylaws, but rather places the rulemaking authority for multiple local Boards under the coordination of the ZBA in order to simplify the permitting process for Applicants.

The Mass Department of Housing and Community Development's Housing Advisory Committee, in providing `Guidelines for Local Review of Comprehensive Permit Applications (see <http://www.state.ma.us/DHCD/components/hac>), has interpreted the enabling legislation to provide ZBA with the authority to act for all local Boards, including the Conservation Commission. There is some question whether Chapter 40B Sections 20-23 provides the authority to set aside Home Rule local bylaws, which, as non-zoning laws, may not fall under ZBA jurisdiction. Until subsequently clarified by case law, the Commission shall work closely and cooperatively with the ZBA to ensure that all applicable local regulations governing wetlands protection in Hopkinton under the home rule bylaw are applied to Comprehensive Permit projects consistently, fairly, and in the same manner as they would be applied to market-rate projects.

Ch 40B Section 20-23 filings are clearly not exempt from the State Wetlands Protection Act, and do not constitute any form of Limited Project or other exemption under the State Wetlands Protection Act. If the project proposes work within an area subject to State jurisdiction under the Wetlands Protection Act (Chapter 131 Section 40 and its regulations 310 CMR 10), or within an area subject to local jurisdiction under the Bylaw (Chapter 206) and its regulations the Applicant must file the necessary permit applications with the Conservation Commission.

All applicable fees, including consultants fees necessary to review and permit the project, are to be paid either by the Applicant or the ZBA, which has the authority to have applicable costs paid by the Applicant. Such fees must be reasonably related to costs incurred in reviewing the application and permitting the project and may not be higher than fees ordinarily charged for comparable permits.

The enabling legislation, Section 21 of Chapter 40B states that before conducting the Comprehensive Permit hearing, "the board of appeals shall request the appearance at such hearing of such representatives of said local boards... and, in making its decision on said application, shall take into consideration the recommendations of the local boards ...". HAC guidelines stress that "Input from local boards and professional staff is critical to sound, well documented permit decisions."

The Housing Advisory Committee guidelines state "The law enables a local Zoning Board of Appeals (ZBA), in consultation with other local boards and officials, to grant a single permit to an eligible developer proposing state or federally sponsored low or moderate income housing. It also permits the Board to override local requirements and regulations that are inconsistent with affordable housing needs if environmental and planning concerns have been addressed. " (italics added for emphasis)

The Housing Advisory Committee guidelines state "The Conservation Commission and the Board of Health have separate jurisdictions, which are not subsumed within the comprehensive permit process. They should conduct separate hearings relating to state requirements in their areas (i.e., the Wetlands Protection Act and state "Title 5" septic regulations). However, local bylaws or regulations enforced by these boards that are more restrictive than state requirements may be waived by the ZBA if requested by the applicant and if waiver is consistent with local needs."

The Housing Advisory Committee guidelines state ""In considering conditions that might be imposed on a project, the Zoning Board

of Appeals should focus on the health, safety, environmental, design, open space, and planning impacts of the development. The Board may impose conditions either to eliminate or to mitigate the adverse impact of the development "Conditions must not be imposed in a manner that places additional burdens on an affordable housing development that would not be imposed in similar circumstances upon market-rate housing."

The statute requires that a comprehensive permit be granted when it is "consistent with local needs," and describes a balancing test. That is, on some sites it may be possible to build affordable housing that does not comply with certain local restrictions, but nevertheless has no negative impact on local health, safety, environmental, design, open space, and planning concerns. For other sites, the impact on these local concerns may be limited enough so that these concerns are outweighed by the need for low and moderate-income housing.

In accordance with the above information, the Commission shall review materials as provided by the ZBA or the Applicant for compliance with the Hopkinton Wetlands Protection Bylaw (Chapter 206 of the Code of the Town of Hopkinton). If conducted in parallel with the Commission's review under the State Act, the Order of Conditions for the project shall clearly identify the provisions and conditions applicable under the State Act from those applicable under the local Bylaw.

Town of Hopkinton
Housing Plan
March 2004

"III. Housing Affordability Chapter 40B

Hopkinton has some lower-cost homes, but very few meet the definition of an affordable housing unit under state law. In Massachusetts and most states across the country, the term "affordable housing" means homes made affordable to lower-income households by a deed restriction or covenant that restricts sale prices and rents as the units are vacated, sold or leased to new tenants. Hopkinton has 125 units of housing that qualify as "affordable" under Chapter 40B,²⁸ a law that is highly controversial in most communities because it overrides local zoning regulations that make low- and moderate-income housing economically infeasible to build. The device that overrides local zoning is known as a comprehensive permit. Enacted in 1969, Chapter 40B establishes a legal presumption of unmet housing needs when less than 10% of a community's year-round housing stock is affordable to households at or below 80% of median family income. Generally, communities that do not meet the 10% threshold must issue a comprehensive permit unless there is an unusual or compelling basis to deny one. Developers, in turn, may ask the state's Housing Appeals Committee (HAC) to overturn a local Zoning Board of Appeals decision. In most cases they negotiate a compromise with town officials, but HAC's overrides have left a lasting impression on communities and form the basis for most of the opposition from local governments today. Hopkinton's inventory of low- and moderate-income housing includes 98 apartments (92 age-restricted) and 27 homeownership units. These 125 units equal 2.8% of Hopkinton's year-round homes. Across the Commonwealth, 8.53% of all houses and apartments meet the statutory definition of "low- and moderate-income housing units," yet only 31 of the state's 351 communities have produced enough subsidized housing to satisfy the 10% goal. Though cities top the list for affordable housing production, a few towns also exceed 10%. Subsidized housing as a percentage of all year-round homes in Hopkinton and neighboring communities varies quite a bit. Regionally, there are 2,471 Chapter 40B units or 4.2% for the area as a whole. Shrewsbury tops the list for number of Chapter 40B units and Upton for percentage, but when the communities are ranked by median household income, Hopkinton has the highest percentage of subsidized housing units. In Massachusetts suburbs, the average percentage of Chapter 40B units is 2.78%.²⁹ (p. 23-24)

Town of Hopkinton
Housing Plan
March 2004

"Zoning bylaws with incentives to build affordable housing have been conspicuously ineffective in Massachusetts, but possibly Hopkinton could implement one. Local officials are considering regulations that would allow higher-density multi-family housing units anywhere in town, provided that all of the units are affordable and qualify for listing on the Chapter 40B Subsidized Housing Inventory. The proposed Village Housing Bylaw is very similar to Hopkinton's existing Garden Apartments Bylaw, but it would allow more units per acre and it would remain in effect until the town has enough affordable housing units to meet the state's 10% benchmark. In contrast, other officials have promoted the concept of inclusionary zoning: a mandate that new residential developments include affordable units or provide them in an equivalent manner, such as off-site units, land donations to the town, or cash contributions to an affordable housing fund.³⁹ Last year, the Attorney General approved several inclusionary bylaws that suburban communities adopted at their annual town meetings. In Massachusetts, most inclusionary bylaws trigger a special permit process but some are simply development regulations that apply to any residential project over a certain size.

Regulatory Incentives to Produce Affordable Housing

The choice of regulatory incentives such as the proposed Village Housing Bylaw or a regulatory mandate such as inclusionary zoning raises several important policy issues. The proposed density incentive in Hopkinton (ten units per acre) is somewhat higher than the standard density formula used by state officials for comprehensive permit homeownership developments.⁴⁰ However, the state formula assumes that developments will include a mix of market and affordable homes – a condition that experienced affordable housing developers say is essential to the economics of a high-quality project.

Hopkinton officials want to offer a generous density incentive in exchange for 100% affordability because they are concerned about the growth impacts of conventional Chapter 40B developments, which effectively add more new housing units than Chapter 40B units to a community's year-round base. Clearly, the higher the percentage of affordable units in a development, the more advantageous it is to a community's progress toward 10% -- except for rental housing, since all units in a rental development qualify for listing on the Subsidized Housing Inventory. One issue triggered by the proposed Village Housing Bylaw is whether the town can attract market-quality housing in a development that includes only affordable homes, and a second issue is whether an all-affordable housing development can fit seamlessly in any community, especially an affluent one like Hopkinton. A third issue is whether a density incentive of any scale will be sufficient to outweigh the perceived disadvantages of applying for a special permit to build affordable housing units. A zoning tool like the Village Housing Bylaw may prove to be most practical for the development of town-owned sites.

Regulatory Requirements to Produce Affordable Housing

Inclusionary zoning has become increasingly attractive in some suburbs, but it is not without pitfalls. In Massachusetts, cities generally allow more units per lot in developments that have to comply with inclusionary housing requirements, but most suburbs have opted for a zoning model that allows no increase in density. Often, suburban inclusionary housing bylaws work in tandem with open space-cluster regulations, so they provide some opportunities to save development costs by siting homes close together and building shorter roads. There is a recurring debate in Massachusetts about the appropriateness or need for density bonuses to mitigate a reduction in development income caused by selling or renting units as affordable housing. While the debate seemingly runs parallel to suburban opposition to Chapter 40B, it is more complicated. Ultimately, the value of any parcel of land is determined by what can be built on it. When a zoning bylaw reduces development income through restrictions on sale prices, it effectively alters the value of the land itself.

Proponents argue that highest and best use is ultimately a measure of development privileges established through zoning, and there are no guarantees that today's development privileges will endure in the future. Opponents argue that private landowners should not bear the burden of the Commonwealth's unmet affordable housing needs.

A second concern with inclusionary zoning bylaws is the capacity of towns to implement them. In states with far more inclusionary zoning experience than Massachusetts, developers almost always choose to pay a fee instead of including units in their projects or providing equivalent units on another parcel of land. In order to set aside and restrict the revenue generated by these fees, however, communities must establish a special revenue fund or trust fund and in Massachusetts, this requires a special act of the legislature.

More significantly, communities need a management plan for the fund: policies governing how the revenue will be used, the agencies or organizations that will have access to the revenue, who will decide how much of the fund can be spent in a given year, and so forth. These issues have been addressed, resolved and largely overcome in experienced states such as California, Illinois, New Jersey and Maryland, but not in Massachusetts. To date, very few communities here have established an appropriate trust fund for inclusionary zoning fees and fewer still have organizational capacity to invest the revenue in affordable housing development. Hopkinton has a newly formed non-profit development corporation and an older, established land trust, so there is some local capacity in place. There are also regional non-profit development corporations and the Hopkinton Housing Authority, and they also may want access to capital to develop affordable housing in Hopkinton. Allocating inclusionary zoning fees requires a policy framework, clearly understood procedures, and basic agreement about how these decisions will be made in the future.

Hopkinton needs to consider three other concerns about inclusionary zoning. First, it will generate more market units than affordable units, which seems to run contrary to the town's objective to limit its future growth potential. A second, more important consideration is this: despite the success of inclusionary zoning in states that have historically had it, the endurance of Chapter 40B could make some forms of inclusionary zoning very unsuccessful in Massachusetts. Developers already use Chapter 40B as a means to bypass local regulations. Since inclusionary zoning places even more demands on developers, it may unwittingly increase the amount of Chapter 40B activity even though it is intended to accomplish the opposite.

A final concern is how the town will set the fee that developers could pay in lieu of providing affordable homes. Drawing again on the experience of states with inclusionary zoning experience, the standard method of fee setting assumes that the "gap" between prevailing market prices and an affordable purchase price equals the town's net cost to provide an affordable housing unit. At least one town in Massachusetts has adopted an inclusionary bylaw with a flat fee per housing unit while another decided to charge a fee equal to three times the moderate-income limit for a family of four. There must be a rational basis for any municipal fee, and inclusionary zoning is no exception." (p. 31-34)

From ordinance.com:

Article XIII A Village Housing in Residential Districts

19. Affordable Units. All of the Village Housing affordable housing units shall be restricted by deed which requires that they remain affordable, as defined by this Article, in perpetuity. 100% of the housing units in any Village Housing development shall be affordable housing units, as defined in this Article.

The Village Housing provisions appear to require that 100% of the units be affordable. It is not clear why a developer would select to develop using these provisions if none of the units can be sold market rate.

Article XIII A
Village Housing in Residential Districts

[Added 5-3-2004 ATM, Art. 36]

§ 210-75.1. Planning, design, conservation and development objectives.

TOWN OF HOPKINTON

ZONING BYLAW

- 21052 - 05-03-2004

B. General objectives. The following planning, design, conservation and development objectives will apply to all proposals for village housing construction in Hopkinton:

(1) To provide affordable housing for all citizens regardless of income, race, color, creed or other like characteristics.

TOWN OF HOPKINTON

ZONING BYLAW

- 21053 - 05-03-2004

§ 210-75.2. Definitions.

As used in this Article, the following terms shall have the meanings indicated:

AFFORDABLE HOUSING UNIT -- A dwelling unit that is deed restricted for occupancy by a LOW OR MODERATE INCOME household and meets the requirements of the Department of Housing and Community Development's "Local Initiative Program" (LIP) for inclusion in the Subsidized Housing Inventory, as provided for in M.G.L.c.40B, Sections 20-23, 760 CMR 31.04, and 760 CMR 45.00.

BASEMENT -- Any portion of a structure below the first story.

LOW OR MODERATE INCOME -- A household with income at or below 80% of the area median income that applies to Hopkinton, as determined from time to time by the Department of Housing and Urban Development (HUD).

§ 210-75.3. Use regulations and dimensional requirements.

A. Use districts. Village Housing, under single ownership or as condominiums, shall be allowed by special permit in all districts where residential uses are permitted by right in accordance with the requirements and regulations set forth in this Article.

B. Dimensional requirements. The following lot sizes, setbacks and regulations must be adhered to by each applicant:

1. Anyone wishing to build village housing may do so only on a site containing an area of not less than 5 acres of usable land, but not more than 20 acres of usable land per village housing project and/or application. The minimum lot frontage shall be 50 feet on a public road.
2. Density shall be a maximum ten units per acre of usable land.
3. The total ground floor area of housing units, garages and accessory buildings shall not exceed 25% of the site area.
4. One-bedroom units shall contain a minimum of 700 square feet of floor area. Two-bedroom units shall contain a minimum of 900 square feet of floor area. Three-bedroom units shall contain a minimum of 1200 square feet of floor area.
5. Buildings shall not exceed 2 ½ stories in height and shall contain a maximum of 12 units. The number of detached single-family dwelling units may vary and may comprise all of the dwelling units in the project.

19. Affordable Units. All of the Village Housing affordable housing units shall be restricted by deed which requires that they remain affordable, as defined by this Article, in perpetuity. 100% of the housing units in any Village Housing development shall be affordable housing units, as defined in this Article.

§ 210-75.4. Administration.

A. Application procedure. The application procedure consists of two steps: application for village housing concept plan special permit approval to the Planning Board and application for village housing site plan approval to the Planning Board. A village housing site plan shall be considered neither a definitive subdivision plan under the provisions of the Subdivision Control Law, nor a site plan under the provisions of Article XX of this Chapter. A village housing site plan shall be considered a technical administrative review of an approved concept plan. The village housing concept plan special permit is the special permit referred to in § 210-75.3(A) of this Article.

There are also affordability provisions in the section on duplex housing:

Section 210-126.2. Duplexes.

A. The intent and purpose of this section is to permit duplexes in the Residence A, Residence B, and Agricultural zoning districts subject to the standards and procedures hereinafter set forth, in order that a range of housing options affordable to all citizens be available in the Town. It is also the intent to assure that the single-family character of the neighborhood will be maintained and that the duplex is designed to enhance and not detract from the appearance and amenities in the surrounding neighborhood.

B. Restrictions.

(1) A special permit may be granted by the Zoning Board of Appeals for the construction of a new duplex.

(2) The Zoning Board of Appeals shall not grant a special permit if, at the time of application the number of two-family dwelling units, including, without limitation, duplexes, two-family houses, and buildings containing accessory family dwelling units in Hopkinton is equal to or more than 5% of the total number of dwelling units in Hopkinton.

(3) There shall be no more than one duplex per lot.

(4) At least one of the duplex units on a lot shall be set aside as permanently affordable and will count toward the 10% statutory goal (c. 40B, S. 20) for affordable housing.

C. Use limitations. There shall be no other living units on the lot upon which a duplex is to be located.

D. Disposal of sewage. Adequate provision shall be made for the disposal of sewage and waste generated by the duplex in accordance with the requirements of the Board of Health and/or the Department of Public Works. Such determination shall be made prior to the application for a special permit, and evidence of same shall be included with such application.

E. Stormwater Management. Adequate provision shall be made for the proper management of stormwater runoff from the lot. Evidence of same shall be included with the above application.

F. Dimensional Requirements. Each lot on which a duplex is proposed shall comply with the following dimensional requirements:

Residence A District: All requirements set forth in §210-8, Residence B (RB) District

Residence B District: All requirements set forth in §210-8, Residence B (RB) District

Agricultural District: All requirements set forth in §210-14, Agricultural (A) District

G. Ingress, egress, access. Adequate provision, as determined by the Director of Municipal Inspections, shall be provided for separate ingress from and egress to the outside of each unit.

H. Documentation. The Zoning Board of Appeals must determine that the construction and occupancy of each duplex unit shall meet the requirements of § 210-152 of this chapter.

I. Area limitation. No duplex unit shall exceed a maximum of 1,800 square feet in floor area. Such area shall not include attached or detached garages, attics, or basements. After construction of an approved duplex: in the event that any proposed addition or alteration to any building on the lot will result in any change to the exterior of the building which will be visible from other lots or roadways, and a building permit for such addition or alteration is required, the following procedures must be complied with: 1) If the proposed addition or alteration will result in no increase in floor area - the applicant must submit a plan to the Design Review Board for review and recommendation prior to the issuance of a building permit; 2) If the proposed addition or alteration will result in an increase in floor area - the applicant must submit an application to the Zoning Board of Appeals to modify the special permit.

J. Plans. Floor plans, elevation drawings of each side of any proposed building, and a certified site plan showing the proposed buildings on the lot and their relationship to other structures and premises within 200 feet of the lot, shall be filed with the application for a special permit.

K. Parking. Provisions for off-street parking of residents and guests of both units shall be provided in such a manner as is consistent with the character of the neighborhood, as determined by the Zoning Board of Appeals. The Zoning Board of Appeals shall seek the advice of the Director of Municipal Inspections and the Design Review Board in such review. In no case shall the number of parking spaces on the lot be less than 2 per unit, including spaces inside garages. Unless the Zoning Board of Appeals specifically waives the following requirement, the duplex shall be served with two separate driveways, one for each unit.

L. Design Review. The Zoning Board of Appeals shall forward a copy of the submission materials to the Design Review Board for review and recommendation. The Design Review Board shall review the exterior design of the proposed buildings, parking, driveways, and landscaping and screening, to determine whether the proposed lot development will be compatible with and not detract from the surrounding neighborhood. Such review shall include consideration of the Design Guidelines adopted pursuant to Section 210-145 of this Chapter.

M. Special Permit. No building permit shall be issued in accordance with the special permit issued under this section until the special permit has been recorded in the Registry of Deeds by the applicant and evidence of such recording has been submitted to the Director of Municipal Inspections.

N. Separate Conveyance. The ownership of each duplex unit may be conveyed or otherwise transferred separately from the other unit. The lot on which the duplex is located shall be held in common ownership. Documents describing the proposed form of ownership and maintenance agreements shall be submitted to the Zoning Board of Appeals for its review and approval with the application.

O. Definition. A duplex is a building which is situated on a single lot and contains two dwelling units which share a common wall or ceiling/floor but are entirely and permanently separated from each other by an unpierced wall extending from the ground to the roof

or an unpierced ceiling/floor extending to all exterior walls, except that the building may have a common stairwell exterior to both dwelling units.

P. Special Provisions for Low or Moderate Income Units.

(1) In order to facilitate the creation of affordable housing units in Hopkinton which will count toward the 10% statutory goal (G.L. c.40B, S: 20), all applicants for a special permit for one or both duplex units to be occupied by a low or moderate income family shall be furnished with copies of the regulations and guidelines of the Massachusetts Department of Housing and Community Development for approval of such unit as an affordable housing unit for purposes of the statutory goal. Such regulations and guidelines shall include those of the Local Initiative Program and any other program designed to promote the creation of certifiable affordable housing units. Prior to issuance of a special permit for a low or moderate income unit which is to be occupied and maintained in accordance with any such program, the Board of Selectmen shall make application to the Department of Housing and Community Development for certification of the unit as an affordable housing unit includable in the Town's inventory of low and moderate income housing for the purposes of G.L. c.40B. In the event such application is not approved the special permit shall not be issued. The affordable units shall contain deed restrictions which require that the unit remain affordable in perpetuity. The Zoning Board of Appeals may impose permit conditions to ensure that the unit remains affordable, including conditions relating to long term monitoring and rights of first refusal.

(2) No building permit shall be issued until certification has been received by the Town of Hopkinton that at least one of the units shall constitute an affordable unit pursuant to G.L.c. 40B.

(3) In the event that such certification is not received, the units shall not be constructed.

**Webmasters Note: The previous section 210-126.2 has been added as per Case No. 2047 from town meeting dated 5/6/02.

What year was the inclusionary/incentive provision adopted?

Have affordable units been developed through this zoning mechanism?

Hudson

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

No

What year was the inclusionary/incentive provision adopted?

Have affordable units been developed through this zoning mechanism?

Hull

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

No Town of Hull Zoning Bylaws, Section 43 (2003)

Part of Flexible Development:

43-8. Board-Modified Number of Dwellings

The Board of Appeals may approve an increase in the maximum number of dwelling units allowed in accordance with the following bonus schedule. The total bonus allowed shall not exceed 10 dwelling units per acre.

Town of Hull Zoning Bylaws, Section 43 (2003)

AMENITY BONUS

a. 40% of proposed dwelling units devoted to elderly or handicapped housing up to 5 additional dwelling units per acre.

- b. Minimum 20 foot buffer strip around entire project area up to 5 additional dwelling units per acre.
- c. Active recreational facilities open to the public such as tennis court and public such as tennis court and up to 5 additional dwelling units per acre.
- d. Proposed dwelling units provide 50% of heating and hot water requirements by means of solar energy up to 5 additional dwelling units per acre.
- e. Underground parking, for proposed dwelling units up to 5 additional dwelling units per acre.
- f. Passive marine related recreational facilities open to the public such as waterfront park or boat landing facilities up to 5 additional dwelling units per acre.
- g. Other normally accepted incentive bonuses up to 5 additional dwelling units per acre.

What year was the inclusionary/incentive provision adopted?

Have affordable units been developed through this zoning mechanism?

Ipswich

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

Yes Town of Ipswich Protective Zoning Bylaw (Adopted 1977, Amended 2004)

I. Inclusionary Housing Requirements

1. Purpose and Intent

The requirements of this subsection are established for the purpose of

- a. increasing the supply of housing in the Town of Ipswich that is permanently available to and affordable by low and moderate income households;
- b. encouraging a greater diversity of housing accommodations to meet the needs of families and other Ipswich residents; and
- c. developing and maintaining a satisfactory proportion of the Town's housing stock as affordable units.w

2. Applicability

The requirements of this subsection I. apply to:

- a. Any multi-family residential development subject to approval by special permit.
- b. Any proposed residential development in the RRA, RRB, and RRC Districts that would create two or more single-family detached or attached dwellings for which compliance with this subsection I. is required in the Table of Dimensional and Density Regulations (SECTION VI.) Developments that create only one single-family detached or attached dwelling are exempt from the provisions of subsection I., provided that a suitable restriction is recorded at the Essex South Registry of Deeds prohibiting the creation of additional units on the property.

****Webmasters Note:** The previous subsection, 2., has been amended as per an ordinance approved at a town meeting held on 10/15/01.

3. Requirements

a. Multi-family Residential Development

(1) Ten percent of the units in any multi-family residential development of ten units or more (the "Affordable Housing Units") requiring a special permit shall be sold or rented to households with incomes at or below 80 percent of the Median Regional Household Income (as determined by the U.S. Department of Housing and Urban Development (HUD) pursuant to the Housing Act of 1937, as amended and adjusted for family size), and shall be restricted to sales prices or monthly rents that are affordable to such households. For purposes of this bylaw, rental housing shall be deemed affordable if rents (including utilities or a HUD-approved utility allowance if utilities are paid separately by tenants) do not exceed 30 percent of 70 percent of the gross monthly Median Regional Household Income for a family of four. For-sale housing shall be deemed affordable for purposes of this bylaw if it is priced so that monthly principal, interest, tax, and property insurance costs and condominium fees (if applicable) do not exceed 33 percent of 70 percent of gross monthly Median Regional Household Income for a family of four, using the best generally available mortgage terms and rates for such borrowers. Where the application of this formula results in a fractional housing unit, a fraction of one half of a dwelling unit or more shall be considered as one Affordable Housing Unit.

(2) For multi-family residential developments of less than ten units requiring a special permit, the applicant shall, in consideration of such permit, provide either one Affordable Housing Unit in accordance with 3.a.(1),4.,5., and 6 of this Section I., or pay a fee to the Town to provide affordable housing in Ipswich. The fee shall be calculated on a pro rata basis, and shall be \$10,000 per unit for developments up to nine units. The fee may be adjusted by the Planning Board from time to time through the issuance of guidelines or regulations. Such adjustments shall reflect both changes in the median contract price for newly constructed homes in the Northeast U.S., as reported annually by the U.S. Census Bureau, and changes in the maximum sales price for single-family homes developed for sale to households at or below 80 percent of Median Regional Household Income through programs administered by the Massachusetts Department of Housing and Community Development.

b. Single-Family Developments of Ten or More Dwellings

Applicants developing ten or more residential Single-family detached or attached dwellings in the RRA or RRB Districts shall comply with the following requirements:

- (1) provide ten percent of the units in accordance with 3.a.(1), 4., 5., and 6. of this Subsection I.; and
 - (2) obtain an Open Space Preservation Zoning special permit in accordance with the provisions of SECTION IX.A. of this bylaw.
- c. Single-Family Developments of Less than Ten Units

Applicants developing fewer than ten residential Single-family detached or attached dwellings units in the RRA and RRB Districts shall comply with the following requirements:

- (1) Provide an Affordable Housing Unit in accordance with 3. a.(1), 4., 5., and 6. of this SECTION I.; or provide an affordable housing fee in accordance with 3.a (2) of this SECTION I.; and
- (2) obtain an Open Space Preservation Zoning special permit in accordance with the provisions of SECTION IX.A. of this bylaw, unless the development creates fewer than five total dwelling units

d. Subdivision Approval

Any development application submitted under the provisions of this subsection that involves the subdivision of land shall also be subject to the approval of the Planning Board under the Rules and Regulations Governing the Subdivision of Land in Ipswich

**Webmasters Note: The previous subsection, 3., has been amended as per an ordinance approved at a town meeting held on 10/15/01.

4. Conditions of Approval

a. Continued Affordability

Affordable housing units developed pursuant to this bylaw shall be subject to long term use restrictions and, where applicable, resale restrictions, to ensure that they remain affordable to low- and moderate-income households for the longest period deemed practicable by the Planning Board, but in no event less than thirty years. Such restrictions shall be enforceable by the Town of Ipswich or by a housing related charitable corporation or trust designed by the Town of Ipswich in accordance with sections 31 and 32 of Chapter 184 of the Massachusetts General Laws and shall be executed and recorded at the Essex County Registry of Deeds, Southern District. It is the intent of this bylaw that affordable housing units be restricted and that long-term affordability be enforced in such a manner that affordable units are considered "low and moderate income housing" for purposes of Section 20 of Chapter 40B of the Massachusetts General Laws.

**Webmasters Note: The previous subsection has been amended as per an ordinance approved at a town meeting held on 10/15/01.

b. Comparability

Affordable units shall be dispersed throughout the site and shall be indistinguishable from market-rate units except in size, interior finish, fixtures and appliances.

c. Family Units

Except as otherwise provided by the Planning Board, affordable units shall contain a minimum of two bedrooms and shall be in every way suitable for family occupancy.

d. Alternative Requirements

The Planning Board may reduce the required percentage of affordable housing units from ten percent to not less than five percent of the units permitted if such Affordable Housing Units are sold or rented at prices affordable to households at or below fifty (50%) percent of the Median Regional Household Income. The Planning Board may also increase the required percentage of affordable housing units from ten percent to not more than fifteen percent of the permitted units if it determines that federal, state or local subsidies are available to defray the cost to the applicant of providing any affordable units in excess of ten percent.

**Webmasters Note: The previous subsection has been added as per an ordinance approved at a town meeting held on 10/15/01.

5. Off-site Location

With the approval of the Planning Board, the inclusionary housing requirement may be met through the provision of some or all of the required affordable units on an alternative site or sites suitable for housing use. Affordable off-site units shall be newly created and at least equal in number to the affordable units that would have been provided on-site. Affordable off-site units required by this Section may be located in an existing structure, provided that their construction constitutes a net increase in the number of dwelling

arms contained in the structures. Affordable units provided through this provision shall comply, in all respects other than on-site location, with the requirements of this section.

6. Compliance

a. Permit Conditions

No special permit shall be issued without appropriate restrictions to ensure that the provisions of this subsection are made binding upon the applicant.

b. Occupancy Conditions

No certificate of occupancy shall be issued for any market-rate units in a development covered by this subsection until all deed covenants and/or other documents necessary to ensure compliance by the applicant with the requirements of this subsection have been executed.

(Added by 10/20/97 Special Town Meeting; approved by Attorney General 2/10/98)

Footnote to the table of use regulations:

20. Multi-family residential developments, are subject to the Inclusionary Housing Requirements in section IX.I of this zoning bylaw. (Added 10/20/97 Special Town Meeting; approved Attorney General 2/10/98)

**Webmasters Note: The previous footnote has been amended as per an update approved at a town meeting held on 10/21/02.

H. Great Estate Preservation Development (GEPD)

Adopted at Special Town Meeting 10/20/97; approved by Attorney General 2/10/98; and revised at Annual Town Meeting 4/6/98; approved by Attorney General 6/2/98; Special Town Meeting 4/5/99, and Annual Town Meeting 4/5/99; approved by Attorney General 8/2/99, and 7/28/99 respectively)

The following density standards and development requirements shall apply to a GEPD approved by a special permit from the Planning Board in lieu of the zoning provisions otherwise applicable in the RRA zoning district.

1. Purpose

The purposes of a Great Estate Preservation Development (GEPD) are to:

- a. encourage the preservation and appropriate development of the building and lands of the large estate properties in the RRA District (For the purposes of this subsection, a Great Estate is defined as an architecturally significant residence and its formal landscape features and supporting structures, constructed prior to 1948 and situated on a minimum of sixty [60] acres.);
- b. recognize and preserve the design integrity of landscape features, both natural and built, which contribute to the character of a Great Estate;
- c. encourage the efficient use of such land in harmony with the natural features of the RRA District;
- d. provide an alternative to the subdivision of an estate property for residences;
- e. preserve open space for conservation or recreation use, and provide appropriate public access to said open space; and
- f. protect natural features which are important to the character of the town.

2. Permitted Uses

The following uses may be permitted in a GEPD by special permit with site plan approval from the Planning Board, as set forth in this subsection:

- a. any use listed in the use schedule as an allowable use in the RRA District, whether by special permit or otherwise, except that residential dwelling use shall not exceed forty-five (45%) percent of the maximum floor area which may be developed pursuant to this GEPD zoning, unless said residential dwelling use meets the following conditions, in which instance the residential dwelling use shall not exceed forty-five percent (45%) of the maximum floor area of the GEPD: (a) the residential dwelling use is located in a GEPD which has an area of at least two hundred (200) acres which has remained substantially unchanged in lot configuration and size since December 31, 1996; (b) a minimum of twenty-five (25) affordable housing units shall be built; if the total number of residences constructed exceeds 180 units, the developer shall also provide 15% of the total on-site market units built in excess of this number as affordable housing, or in lieu of constructing the additional affordable units, subject to the approval of the Planning Board, the developer may contribute a payment of \$50,000 for each additional affordable unit to a fund to be used for the purpose of creating or sustaining affordable housing in the Town of Ipswich. Affordable units shall be as defined in f.(ii) below, except that up to one-third of the affordable units may be rented or sold to, and occupied by, households earning up to 120% of the median area household income. At least ten of the affordable units shall be located within the GEPD. Affordable units constructed off-site shall be done so in compliance with SECTION IX.I.5. of this zoning bylaw; (c) no more than two hundred thirty-five (235) dwelling units,

inclusive of the on-site affordable units, shall be built on-site; (d) no more than 50% of the units may contain more than two bedrooms, and non of the units shall contain more than three bedrooms; and (e) each 1000 square feet of residential dwelling built in excess of 25% of the maximum floor area which may be developed pursuant to this GEPD zoning. [Amended 10/16/00]

b. hotel, conference center. (For the purposes of this subsection, a conference center is defined as a commercial establishment or designated area within a commercial establishment providing space for business or professional conferences, seminars, training or other meetings and customary hotel functions.);

c. medical and dental clinics;

d. health or fitness spa. (For the purposes of this subsection, a health or fitness spa is defined as a commercial establishment or designated area within a commercial establishment providing facilities devoted to health and fitness.);

e. school for instruction in golf, tennis, or other sport; golf driving range, provided it is affiliated with a golf course which is a component of the GEPD;

f. multi-family dwelling, provided that:

(i) at least 50% of the units are limited to those over the age of 55 as described in M.G.L. Chapter 151B, Section 4(6). Any special permit approval shall include a condition which describes an appropriate method of ensuring that this provision is satisfied;

(ii) at least 10% of the total units are affordable housing. (For the purposes of this subsection, affordable housing shall be defined as dwelling units which are rented or sold to, and occupied by, households earning up to 80% of the median area household income, as such median is defined by the United States Department of Housing and Urban Development (HUD). Affordable rental units shall be "rent restricted", as such term is defined in the Federal Low-Income Homing Tax Credit Program, Internal Revenue Code Section 42(g)(2), such that rents, including utilities, are set at no more than thirty (30) percent of the income limit, adjusted for bedroom size.);

g. nursing homes;

h. business and professional offices;

i. retail shops, dining facilities, and similar accessory uses primarily to serve occupants, employees or guests;

j. research offices or establishments devoted to research and development activities; and

k. the processing of biotechnological products arising out of, or substantially similar to, the research and development activities of a research office or establishment on the same lot; provided, however, that (a) said use shall require a separate special permit from the Planning Board; (b) recognizing the unique manner in which each user may conduct its biotechnological processing, any special permit issued for such a use shall be limited to a specific user and any change in control of a corporate user shall require a new special permit for a subsequent user (For the purposes of this subsection, change of control shall be defined as (i) the sale by the user of its operating assets located on the lot to an unaffiliated entity; (ii) a merger or consolidation resulting in the stockholders of the user owning less than one-half of the stock of the surviving corporation; or (iii) the sale of more than one-half of the issued stock of the user to parties who were not stock-holders of the user at the time of the approval of the special permit); (c) at no time shall more than thirty-five (35%) of the constructed floor area be primarily devoted to such processing; and (d) the Board determines, upon consultation with the Board of Health and the Water Commissioners, that said processing use is not detrimental to the health, safety, and welfare of the community.

3. Density Standards

a. Minimum Lot Size: A GEPD may be permitted on a lot which:

(i) has an area of at least sixty (60) acres which has remained substantially unchanged in lot configuration and size since December 31, 1996. Contiguous lots may be combined for inclusion in a GEPD, provided that at least one of the lots contains sixty (60) acres and has remained substantially unchanged in lot configuration and size since December 31, 1996. The calculation of minimum lot size shall be done in accordance with paragraph b.(iii) below; and

(ii) is a great estate as defined in 1.a. above; and

(iii) contains buildings constructed prior to December 31, 1996 which contain in aggregate a minimum of 40,000 square feet of existing floor area. For the purposes of this subsection, floor area is defined as the aggregate gross floor area of all floors within all principal and accessory buildings.

b. Floor Area of Development:

(i) New Floor Area: For the purposes of determining the total new floor area which may be developed on the lot, the applicant may construct new floor area in the development such that the total resulting floor area does not exceed the product of 3,000 square feet times the number of dwelling units which could be developed under normal application of one-acre zoning requirements under the "Town of Ipswich Rules and Regulations Governing the Subdivision of Land" and in accordance with SECTION VI. of this zoning bylaw. The applicant shall provide with the application for special permit a site plan with verifiable soil tests indicating the number of

buildable lots possible under detached single-family zoning, the State Environmental Code, Title V, the requirements of the Board of Health, the Wetlands Protection Act, and the Ipswich Wetlands Protection Bylaw and Rules and Regulations. Such soil tests shall be conducted as if they were actually percolation tests in accordance with the above-referenced requirements and shall be verified and attested to by a registered professional engineer.

(ii) Additional Floor Space for Rehabilitation of Existing Buildings: If, as part of the development, the applicant rehabilitates or renovates existing buildings on the lot, the new floor area to be developed on the lot may be increased by five (5) square feet for every square foot of floor space in buildings to be rehabilitated or renovated. This density bonus shall apply only if all buildings and structures on the site certified by the Historical Commission as having historic or architectural significance, are to be rehabilitated or renovated. The Planning Board shall refer to the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings for guidance when reviewing the buildings which have been, or are proposed to be, rehabilitated or renovated.

(iii) Wetlands/Coastal Exclusion: For a lot which contains wetlands and/or floodplain, or which is subject to the Rivers Protection Act, only one-half the area which is designated as wetlands and/or floodplain, or is subject to the Riven Protection Act, may be considered in the lot area calculations. For the purposes of determining lot area, the Federal Insurance Floodplain Maps (FIRM) and the Town of Ipswich General Wetlands Bylaws shall be used to determine floodplain, wetlands, and areas subject to the Rivers Protection Act.

(iv) Maximum Density: The total allowable floor area obtained through the application of the formulae described in sub-paragraphs (i) and (ii) above, shall not exceed eight percent (8%) of the area of the lot.

4. Development Requirements

a. Town Water: The development shall be served by a water system deemed adequate for fire protection and domestic use by the Water Commissioners and by the Fire Chief

b. Sanitary Sewer/Septic: The development shall be served by the Town's sanitary sewer system or by one or more on-site disposal systems conforming to the State Environmental Code, Title V and the regulations of the Board of Health. If, however, in the judgment of the Board, the topography and/or soil conditions are such that it would be more efficient to allow (i) a private central sanitary sewer system, notwithstanding the lot's location in a Water Supply District, and/or (ii) allow an underground common septic system or individual septic systems to be placed in the preserved open space, this configuration may be permitted. Prior to making such judgment, the Planning Board shall seek the review and recommendations of the Board of Health, Department of Utilities, Board of Water Commissioners, and the Conservation Commission. If a GEPD is located within a Water Supply District and a private central sanitary sewer system is proposed, the Planning Board shall not approve a special permit under this subsection unless and until said system shall have received a favorable recommendation from the Board of Water Commissioners, which recommendation shall not be unreasonably withheld. All systems are further subject to approval by the Board of Health and any other governmental authority having jurisdiction.

c. Open Space Restriction: A minimum of thirty (30%) percent of the lot shall either be:

(i) conveyed to the Town of Ipswich and accepted by it for open space use;

(ii) conveyed to the Commonwealth of Massachusetts as part of a state forest, park, or wildlife management area;

(iii) conveyed to a non-profit corporation, the principal purpose of which is the conservation of open space, and made subject to a conservation restriction prepared in accordance with the provisions of Section 31 and 33, inclusive, of Chapter 184 of the General Laws of the Commonwealth of Massachusetts;

(iv) made subject to a conservation restriction prepared in accordance with the provisions of Section 31 and 33, inclusive, of Chapter 184 of the General Laws of the Commonwealth of Massachusetts running in favor of either the Town or, upon the approval of the Planning Board, a non-profit corporation, the principal purpose of which is the conservation of open space. The conservation restriction shall provide that such land shall be kept, in perpetuity, in an open or natural state, in accordance with the above-noted sections of Chapter 184 of the General Laws.

In designating the open space, the applicant shall apply the guidelines adopted by the Planning Board in May of 1997, entitled CRITERIA FOR EVALUATING PROPOSED OPEN SPACE. At least a portion of the open space shall be available for use by the general public, unless the applicant can provide compelling reasons to the Planning Board why such access would be infeasible. If it is deemed necessary to achieve the purposes of this subsection, the Planning Board may increase the open space minimum requirement by not more than ten (10) percent.

d. Dimensional Regulations

(i) A minimum setback of one hundred (100) feet shall be provided between a GEPD and abutting lots, and a buffer strip consisting of vegetated area with a minimum depth of one hundred (100) feet shall be provided between the GEPD and any street line. An entry drive, along with a gate house and appropriate signage, may be permitted within the buffer strip. If a boundary line of the GEPD is adjacent to permanent open space, such as Town, State, Federal or privately-restricted open space, the Planning Board may require that the first thirty (30) feet of the setback from such open space be a landscaped buffer. The Planning Board may decrease or increase by not more than twenty (20%) percent any buffer area requirement if, after site plan review by the Board, the Board deems such action to be reasonable and appropriate.

(ii) The area developed for commercial use, including buildings, parking, outdoor recreational structures, and areas paved for vehicular use, shall not exceed twenty (20%) percent of the total area of the lot. Walking or bicycle trails shall not be counted in the calculation of the twenty (20%) percent limitation.

(ii) The development shall be subject to site plan review in accordance with the provisions of SECTION X.

(iv) Newly constructed or renovated buildings in a GEPD may be four stories in height, provided that the building height does not exceed the maximum height allowed under SECTION VI.G.2. of this bylaw.

(v) Notwithstanding anything to the contrary contained in this zoning bylaw, in granting a special permit and site plan approval for a GEPD, the Planning Board may reduce any of the foregoing dimensional requirements, or increase the height requirement, to a maximum of twenty-five (25) percent, provided that in no instance shall a building contain more than four stories.

(vi) Newly constructed buildings in a GEPD, other than gate houses, shall be setback at least two hundred fifty (250) feet from a public way.

e. Streets and Further Subdivision: Any subdivision of the GEPD which is subject to MGL C.41 shall be in accordance with the Rules and Regulations Governing the Subdivision of Land in the Town of Ipswich. After issuance of a GEPD special permit and site plan approval, and establishment of the required open space for the GEPD, as a whole, the GEPD may be subdivided into lots which may be less than sixty (60) acres and may be held in separate ownership, provided that each portion of the subdivided site remains subject to all of the applicable terms and conditions of (i) the GEPD special permit, and (ii) the site plan approval for the improvements on such portion of the site.

f. Phasing: Phasing of the GEPD, as approved by the Planning Board, shall be permitted either pursuant to phasing described in the initial special permit application or in subsequent special permit or site plan review applications. The special permit and site plan approval shall not be deemed to have lapsed so long as the applicant shall have commenced use of the Great Estate Preservation special permit or site plan approval in substantial accordance with the phasing time frames set forth in the special permit and site plan approval application. The Planning Board shall have the authority to require a performance bond or other similar mechanism if it determines that such a mechanism is necessary to ensure that the key components of the project are satisfactorily completed.

5. Special Permit Application Process

All special permit applications for GEPD shall be made and filed on the appropriate application form. For an application to be considered complete, it shall provide all information required by the Rules and Regulations Governing Granting of Special Permits, available from the Department of Planning and Development, and by any regulations adopted in accordance with paragraph 9 below.

The special permit application shall also be accompanied by a certification from the Historical Commission of all historically and/or architecturally significant buildings, landscape features and supporting structures located on the site, said certification to be based on the criteria set forth in Chapter XVI of the General Bylaws of the Town of Ipswich; and by nine copies of a site development report, which shall summarize how the proposed GEPD satisfies the special permit criteria being considered by the Planning Board. The site development report should include, at minimum, an inventory of natural resource features, wildlife and their habitat; an inventory of the Great Estate consistent with current standards required for documentation for nomination to the National Register of Historic Places, and a general inventory of all other existing buildings, structures and landscape features; and an outline of how the following issues and impacts will be addressed by the development: (a) pedestrian and vehicular access to the site; (b) public safety issues; (c) provision of landscaping/buffering; (d) protection of wildlife habitats; (e) provision of utilities; (f) open space and recreation; (g) water supply and drainage issues; (h) layout and density of site development; (i) the preservation and rehabilitation of the exterior features, character and structural integrity of the Great Estate, and the open space, vistas, stonework, gardens, and other historic landscape features and supporting structures associated with the Great Estate; and (j) building design and materials, including exterior elevations of existing and proposed buildings. To the extent possible, the information provided in the report shall be shown in map form, accompanied by written narrative.

6. Review Criteria

In addition to applying the Special Permit general conditions described in SECTION XI, subsection J, of this zoning bylaw, and the standards, requirements, or conditions set forth in this SECTION IX.I, the Board shall review the special permit application in accordance with the following criterion: the proposed GEPD will, by its design and layout, succeed in (a) preserving open space for conservation and/or recreation purposes, and providing appropriate public access to the open space; (b) protecting natural features of the land which are important to the character of the town; and (c) preserving the buildings, structures, and landscape features of the large estate properties in the RRA District.

7. Preliminary Review

Prior to submitting a special permit application to the Planning Board for a GEPD, the applicant is strongly encouraged to submit a preliminary concept plan for review by the Planning Board and a Development Review Committee appointed by the Town Manager. The preliminary review shall provide an opportunity for the applicant to identify early in the process the preferences of the Planning Board and Review Committee relative to the development of the site. The Review Committee shall include the chair of the Conservation Commission, Open Space Committee, Bay Circuit Trail Committee, and Historical Commission, or their designees; the Directors of the Town Departments of Utilities, Code Enforcement, Public Works, Public Safety, and Planning & Development; a professional architect; a professional landscape architect; a professional civil engineer, and one or more residents from the

neighborhood in which the GEPD is proposed.

The preliminary concept plan should show: (a) the location, height, density, and architectural treatment of all buildings proposed for construction or renovation; (b) the size, location and proposed use of the open space; (c) the location of all existing and proposed parking areas and access roads within and without the GEPD; (d) the type and probable location of the proposed utilities; and (e) a delineation of any wetlands or other environmentally-sensitive land on the property. The preliminary concept plan should be accompanied by a certification from the Historical Commission of all historically and/or architecturally significant buildings, landscape features and supporting structures located on the site, said certification to be based on the criteria set forth in Chapter XVI of the General Bylaws of the Town of Ipswich.

8. Advisory Opinion

Within ten days (10) of receipt of a special permit application for a GEPD, the Planning Board shall transmit copies of the application to the aforementioned Development Review Committee and the Historical Commission, which shall review the application and submit their recommendations to the Planning Board within forty-five (45) days of the referral of the application.

9. Adoption of Rules and Regulations:

The Board shall adopt an application form and rules and regulations in accordance with the provisions of this subsection. Said rates and regulations shall specify the application process, type and number of required plans, and general requirements in order to assist the developer in complying with the intent of this subsection.

What year was the inclusionary/incentive provision adopted?

1997 1. Inclusionary Housing Requirements
(Added 10/27/97 by STM)
2. Applicability
**Webmasters Note: The previous subsection, 2., has been amended as per an ordinance approved at a town meeting held on 10/15/01.

Have affordable units been developed through this zoning mechanism?

Yes According to Planning Assistant Kate Day (11/1/04), the results of Ipswich's inclusionary zoning have been "extremely positive." She said that a 17 unit condo development went in this summer and that 2 of the units are affordable and that the developer additionally gave \$70,000 to a trust fund for affordable housing. Ms. Day said that the town has had very good relationships with developers who are working with 40B and that accessory apartment provisions (often in the form of old carriage houses) have been expanded from relatives only to anyone so that they may be more accessible for people who need affordable housing.

Town Planner Glenn Gibbs (11/1/04) concurred that the town has been very effective at implementing inclusionary housing. The town created inclusionary by-laws in 1997 and expanded them in 2001 so that all developments require inclusionary housing instead of just being triggered at 11 or more units. He said that they have been thinking long term for a long time, are always able to get 1 or 2 measures passed at town meeting that improve housing options in town and that developers are taking advantage of density bonuses to create cluster subdivisions that provide affordable housing.

Kingston

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

Yes Town of Kingston Zoning Bylaw (Adopted 1955, Amended 2004)

Town of Kingston, Zoning Bylaws, Section 6.12. Inclusionary Housing

6.12.1. Purpose and Intent

6.12.1.1. The purpose of this Bylaw is to outline and implement a coherent set of policies and objectives for the development of affordable housing in compliance with the Kingston Master Plan, G.L. c. 40B sec. 20-23 and ongoing programs within the Town to promote a reasonable percentage of housing that is affordable to moderate income buyers. It is intended that the affordable housing units that result from this Bylaw be considered as Local Initiative Program (LIP) dwelling units in compliance with the requirements for the same as specified by the Department of Community Affairs, Department of Housing and Community Development and that said units count toward the Town's requirements under G.L. C. 40B, sec. 20-23.

6.12.2. Definitions

6.12.2.1. AFFORDABLE HOUSING UNIT. A dwelling unit that qualifies as a local initiative unit under the Commonwealth's Local Initiative Program and meets the requirements of a subsidized housing unit for purposes of listing in the subsidized housing inventory under G.L.C. 40B Sec. 20-23

6:12.2.2. QUALIFIED AFFORDABLE HOUSING UNIT PURCHASER. An individual or family with household incomes that do 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).

6.12.3. Applicability

6.12.3.1. Division of Land. This By-law shall apply to the division of land into six (6) or more lots, and shall require a special permit from the Board, under Section 5.3. or Section 5.4. of the Zoning By- Laws. A special permit shall be required for land divisions under G.L.C. 40A sec. 9 as well as for "conventional" or "grid" divisions allowed by G.L. c.41 sec. 81-L and sec. 81-U, including those divisions of land that do not require subdivision approval.

6.12.3.2. Multiple Units. This by-law shall apply to the construction of six (6) or more dwelling units whether on one or more contiguous parcels, and shall require a special permit from the Planning Board.

6.12.4. Mandatory Provision of Affordable Units

The Planning Board shall, as a condition of approval of any development referred to in Sections 6.12.3.1. and 6.12.3.2. require that the applicant for special permit approval comply with the obligation to provide affordable housing pursuant to this By-law and more fully described in Section 6.12.5.

6.12.5. Provisions of Affordable Units

The Planning Board shall deny any application for a special permit development under Section 5.3. or Section 5.4., and this section if the applicant for special permit approval does not agree that:

6.12.5.1. At least ten (10) percent of the lots in a division of land or units in a multiple unit development subject to this Bylaw shall be established as affordable housing 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) units shall require one (1) affordable units and so on.

6.12.5.1.a. Constructed or rehabilitated on the locus subject to the special permit;

6.12.5.1.b. Constructed or rehabilitated on a locus different than the one subject to the special permit (see Section 6.12.8.);

6.12.5.1.c. An applicant may offer, and the Planning Board, in concert with the Board of Selectmen, may accept, donations of land in fee simple, on or off-site, that the Planning Board determines are suitable for the construction of affordable housing units. The value of donated land shall be equal to or greater than the value of the construction or set-aside of the affordable units. The Planning Board may require, prior to accepting land as satisfaction of the requirements of this Bylaw, that the applicant submit appraisals of the land in question, as well as other data relevant to the determination of equivalent value;

The applicant may offer, and the Planning Board may accept, any combination of the Section 6.12.5.1.a - 6.12.5.1.c. 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.

6.12.6. Provisions Applicable to Affordable Housing Units On-and-Off Site

6.12.6.1. Siting of Affordable Units. All affordable units constructed or rehabilitated under this By-law shall be situated within the development 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.

6.12.6.2. 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.

6.12.6.3. Timing of construction or provision of affordable units or lots. Where feasible, 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:

Fractions of units shall not be counted

6.12.7. Marketing Plan for Affordable Units

Applicant under this By-law shall submit a marketing plan or other method approved by the Planning Board, 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 marketing plan must describe how the applicant will accommodate local preference requirements, if any, established by the Board of Selectmen, in a manner that complies with the nondiscrimination in tenant or buyer selection guidelines of the Local Initiative Program.

6.12.8. Provision of Affordable Housing Units Off-Site

As an alternative to the requirements of Section 6.12.5.1.a., an applicant subject to the By-law may develop, construct or otherwise provide affordable units equivalent to those required by Section 6.12.5. off-site. All requirements of this Bylaw 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 Planning Board as an integral element of the special permit review and approval process.

6.12.9. Maximum Incomes and Selling Prices: Initial Sale

6.12.9.1. 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 and 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 Kingston Housing Authority, that his/her or their family's annual income level does not exceed the maximum level as established by the Commonwealth's Division of Housing and Community Development, and as may be revised from time to time.

6.12.9.2. The maximum housing cost for affordable housing units created under this Bylaw is as established by the Commonwealth Development or as revised by the Town.

6.12.10. Preservation of Affordability; Restrictions on Resale

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 on the property, recorded at the Plymouth County Registry of Deeds or the Land Court, and shall be in force for as long a period as is lawful.

6.12.10.1. Resale price. Sales beyond the initial sale to a qualified affordable income purchaser shall include the initial discount rate between the sale price and the unit's appraised value at the time of resale. This percentage shall be recorded as part of the restriction on the property noted in Section 6.12.10. For example, if a unit appraised at \$300,000 is sold for \$225,000, as a result of this Bylaw, it has sold for 75% of its appraised value. If, several years later, the appraised value of the unit at the time of proposed resale is \$325,000, the unit may be sold for no more than \$243,750, or 75% of the appraised value of \$325,000.

6.12.10.2. Right of first refusal to 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'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.

6.12.10.3. The Planning Board shall require, as a condition for special permit approval under this By-law, that the deeds to the affordable housing units contain a restriction against renting or leasing said unit during the period for which the housing unit contains a restriction on affordability.

6.12.10.4. The Planning Board shall require, as a condition for special permit approval under this By-law, that the applicant comply with the mandatory set-asides and accompanying restrictions on affordability, including the execution of the deed rider noted in Section 6.12.10. The Building Inspector/Zoning Enforcement Officer shall not issue an occupancy permit for any affordable housing unit until the deed restriction is recorded at the Plymouth County Registry of Deeds or the Land Court.

**Webmasters Note: The previous section, Section 6.12, has been added as per an update approved at a town meeting held on 10/6/03.

What year was the inclusionary/incentive provision adopted?

2003 Ordinance.com lists Section 6.12, as added per an update approved at a town meeting held on 10/6/03. This date was confirmed by Tom Bott, Town Planner. (11/30/04)

Have affordable units been developed through this zoning mechanism?

Tom Bott, Town Planner, (11/30/04) said that developers have expressed concern that affordable units are 'a wash' financially and hurt the absorption rate of the development.

Lakeville

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

No

What year was the inclusionary/incentive provision adopted?

Have affordable units been developed through this zoning mechanism?

Lancaster

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

No Planning director Bruce Hamblin confirmed (11/12/04) that the town has no inclusionary zoning, but he said that they will most likely consider it as they begin work on a new master plan within the next year.

What year was the inclusionary/incentive provision adopted?

Have affordable units been developed through this zoning mechanism?

Lawrence

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

No

What year was the inclusionary/incentive provision adopted?

Have affordable units been developed through this zoning mechanism?

Leicester

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

No The single mention of "affordable" housing is the following (and a clear definition is not offered):

5.7 Senior Village Developments

5.7.01 Intent and Applicability

The purpose of this section is to encourage development of master-planned residential communities for persons fifty-five (55) years of age and older, by allowing a greater variety of uses and building types at a higher density than would normally be allowed to promote affordable housing and the preservation of open space within the development. It is intended that this section provide a mechanism for development of a range of housing types and facilities that are responsive to the socio-cultural, health care, and recreational needs of senior residents; to achieve land development that is responsive to an analysis of the environmental assets and constraints of a site; and to encourage well-integrated development in terms of land use and major design elements such as buildings, roads, utilities, drainage systems and open space. ...

Town planner Michelle Buck confirmed that the town has no inclusionary housing by-laws. (11/04)

What year was the inclusionary/incentive provision adopted?

Have affordable units been developed through this zoning mechanism?

Leominster

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

Yes The one area of the by-laws where affordable housing is discussed is in the PUD Section.

City of Leominster Zoning Ordinance (Adopted 2001, Amended 2003)

Section 22-61 General Description

A "Planned Unit Development" shall mean development containing a mixture of residential uses and building types, including single family and multifamily dwellings, business uses and industrial uses. A Planned Unit Development may be allowed by Special Permit

to exceed the normal density requirements for the district to the extent authorized by this Ordinance provided that standards for the provision of affordable housing and other standards specified herein are met.

Section 22-4 Definitions

Affordable Housing. Housing that is available for low and moderate income households.

Section 22-66 Affordable Housing Requirements

In reviewing an application for Planned Unit Development in which the proposed density exceeds that normally allowed in the district, the Planning Board shall give special consideration to such a proposal which includes affordable housing units amounting to at least ten (10) percent of the total PUD units.

There is nothing more in this town's by-laws that refers to affordable housing except for a provision in the scheduled development section that allows for exemptions if affordable housing is included in the development.

What year was the inclusionary/incentive provision adopted?

Economic Development Coordinator Chris Paquette said that he did not know if inclusionary zoning pre-dated their 2001 zoning regulations.

Have affordable units been developed through this zoning mechanism?

Economic Development Coordinator Chris Paquette said that the city has made a real effort to increase its "low to mod" housing. He said that Leominster is just under 10% affordable housing now and that they have plans that will get them over 10%. He said that a 40B recently went through and that the city has done a lot around rehabbing old homes and adding affordable units to them.

Lexington

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

Yes The Land Use Ordinance of Lexington (Town of)
MIDDLESEX COUNTY, MASSACHUSETTS
ZONING BY-LAW
SECTION 9. RESIDENTIAL DEVELOPMENTS
9.6 DEVELOPMENTS WITH SIGNIFICANT PUBLIC BENEFIT (DSPB)

§ 135-49. Developments with significant public benefit.

A. Meaning of term. A development with significant public benefit (DSPB) is a cluster subdivision or a special residential development (see § 135-48) in which the Planning Board has determined that there are sufficient benefits to the adjacent neighborhood and the town generally to warrant an increase in the maximum development permitted.

B. Objectives. The objectives of this section are to allow additional flexibility in the standards and procedures for approval and to provide incentives for applicants to propose a development with significant public benefit and to:

- (1) Encourage the provision of more public facilities and services that benefit the adjacent neighborhood and the town generally;
- (2) Encourage types of housing that meet the needs of age groups, income groups, or persons with special needs, that are not adequately served by large single-family dwellings;
- (3) Encourage a greater degree of review of the design features of a residential development;
- (4) Require a higher qualitative standard of building design, and in the provision of public facilities and the provision of open space;
- (5) Further the objectives set forth in § 135-44A; than would otherwise apply in the administration of zoning and subdivision regulations

C. Maximum development.

(1) Maximum development incentive. The maximum development permitted in a development with significant public benefit may not exceed that permitted in a cluster or special residential development [see § 135-48D(2)] by more than 25% for any of the following impact measures each considered separately:

- (a) Gross floor area of dwelling units.
- (b) Living area of dwelling units.
- (c) Site coverage of dwelling units.
- (d) Total number of occupants of dwelling units.
- (e) Vehicular trip generation from dwelling units.

(2) No entitlement to maximum development incentive. An applicant is not entitled to the maximum development described in Subsection C(1). The amount of development permitted, as calculated by any of the impact measures, will be based on the Planning Board's evaluation of the proposed development and the extent to which it complies with the criteria set forth in Subsection E.

D. Significant public benefit defined.

- (1) Qualifying significant public benefit.

(a) A significant public benefit shall be a benefit to the adjacent neighborhood and the town generally as determined by the Planning Board. In general a qualifying public benefit shall be:

[1] Improvements in the adjacent neighborhood similar to the required improvements on the site, such required improvements being those identified elsewhere in this By-Law or in Part 2, Subdivision Regulations, Article VIII of Chapter 175, such as, but not limited to, any facility, infrastructure, or restriction on the development of land in relationship to the development of land and buildings;

[2] Improvements on the site that are, in the opinion of the Planning Board, well in excess of those otherwise required;

[3] Restrictions on, or special design or development features of, uses and buildings permitted in the zoning district.

(b) A significant public benefit may be one or more of the following as determined by the Planning Board after consultation with the board, committee, commission, department or official indicated and such others as the Planning Board may determine:

[1] Preservation of an historic structure or place: with the Historical Commission and, as applicable, the Historic Districts Commission;

[2] Protection of open land that is dry and otherwise developable and potentially an important addition to the inventory of open space in the town: with the Conservation Commission and the Recreation Committee. All of such open land shall be accessible to the public. The type of private homeowners' association reserve, allowed in § 135-46D(3)(a)[2], from which the public could be excluded, shall not qualify;

[3] Provision of public recreation facilities: with the Recreation Committee;

[4] Installation of paths to provide pedestrian and bicycle access to open space or other public facilities in the adjacent neighborhood: with the Recreation Committee, the Bicycle Advisory Committee and the Conservation Commission;

[5] Installation of street trees or other landscaping features within the right-of-way of a public street, or a street previously approved under the Subdivision Regulations: with the Superintendent of Parks and Trees;

[6] Placement underground of electric power lines and communication lines, such as, but not limited to, telephone, security alarm and cable TV lines: with the Town Engineer;

[7] Provision of housing units for low- and moderate-income households: with LEXHAB or the Lexington Housing Authority and, as applicable, the Human Services Committee or the Council on Aging;

[8] Provision of housing units that, upon initial occupancy, would cost more than low- and moderate-income households could afford but, due to deed restrictions or other legally binding restrictions: could be afforded by households whose annual income is not greater than the median income for the Boston Metropolitan Area, and are projected to be affordable by low- and moderate-income households within 15 years: with LEXHAB or the Lexington Housing Authority;

[9] Provision of housing units that are of a size or type that meets the needs of segments of the town's population that, due to age or special needs, are not adequately served by large single-family dwellings: with LEXHAB or the Lexington Housing Authority and, as applicable, the Human Services Committee or the Council on Aging;

[10] Provision of facilities for alternate transportation services that do not rely on the use of single-occupant automobiles: with the Transportation Advisory Committee. The alternate transportation services may include a financial contribution to a service provided by the Town of Lexington, or a service provided by others and coordinated by the Town;

[11] Provision of transportation facilities, such as a walk, or path, or traffic engineering improvements: with the Town Engineer, the Transportation Advisory Committee, the Recreation Committee or the Bicycle Advisory Committee;

[12] Provision of a utility or underground facility, including but not limited to water service, sanitary sewer service, stormwater management systems, or the expansion in the capacity of an existing facility or system: with the Town Engineer.

What year was the inclusionary/incentive provision adopted?

1984 Answer based on 6/29/04 phone conversation with Ms. McCall-Taylor, Assistant Planning Director -- 1984.

Have affordable units been developed through this zoning mechanism?

Yes Answer based on 6/29/04 phone conversation with Ms. McCall-Taylor, Assistant Planning Director -- under the special benefit - density bonus bylaw, no units have been built because they are considered too dense; one proposal came through which would have used the bonus, but it was sold and a different type of development was built.

Ms. McCall-Taylor said that in the last 3 years, the town has been asking developers to build affordable units to get a special permit; Six affordable units (includes not constructed) have been permitted so far.

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

Yes From ordinance.com:

SECTION 14 SPECIAL HOUSING PROVISIONS.

14.1 Purpose.

The existing development pattern of the Town has resulted in conditions which make it difficult for Town employees, young people, older people and persons of low and moderate income to find suitable housing within the Town. The special regulations contained in this Section 14 have been enacted for the purpose of encouraging the construction of a limited number of housing units suitable for occupancy by such persons, while ensuring compliance with local planning standards and policies concerned with land use, building design, and requirements of the health, safety, convenience and general welfare of the inhabitants of the Town.

14.2 Increased Density in an R-4 Planned Community Development District.

14.2.1 In connection with an application to the Board of Appeals for a special permit permitting development of a tract of land in an R-4 PCD District under Section 8.3 hereof, the Board of Appeals may waive the provisions of Section 8.3.2(b) and (d) hereof relating to the maximum permissible density in such a development provided that:

(a) the proposed development complies with all of the other provisions of Section 8.3;

(b) the number of dwelling units to be constructed in the development does not exceed one unit for each 10,000 square feet of the total land area of the development and does not exceed a total of 150 dwelling units in the development;

(c) the development is not located so close to any other development constructed under this section as to create an undue concentration of higher density housing or to defeat the requirements of subparagraph (b) above;

(d) not less than 60% of the dwelling units to be constructed in such development are subsidized housing units; and

(e) provision shall be made so that at least 70% of the total land area of the development shall be Open Land. For purposes of this paragraph, Open Land shall include land set aside for unenclosed athletic facilities or any use allowed in the C-Open Space Conservation District.

14.2.2 In addition to any other restrictions imposed under Section 8 above, the following special provisions shall apply to a special permit for an R-4 Planned Community Development:

(a) where the proposed construction of subsidized housing is dependent upon obtaining approval and/or a commitment of financial assistance under relevant Federal or state housing subsidy programs, it shall be a condition of any special permit issued hereunder that no building permit shall be issued for any portion of the proposed development until the Applicant has filed with the Board of Appeals evidence that such approval and/or commitment has been obtained;

(b) any special permit granted hereunder shall impose appropriate safeguards to ensure the continued use of the subsidized units or equivalent units for subsidized housing;

(c) any special permit granted hereunder shall incorporate by reference the building design, site development and financing plans submitted by the developer with the application. Development of the tract in question under such special permit shall be in substantial conformance with such designs and plans, unless, after notice and hearing, the Board of Appeals amends such special permit.

14.2.3 In addition to the plans and supporting materials required under Section 8.4 above, the application to the Board of Appeals for a special permit for subsidized housing under this section shall be accompanied by the following material, copies of which shall also be submitted to the Planning Board:

(a) financing plan describing the Federal or state subsidy program, the subsidizing agency, the estimated costs of land, site development, building, operation and maintenance and the planned approximate schedule of rents, leases or sale prices;

(b) a tabulation of proposed buildings by type, size (number of bedrooms, floor area), ground coverage and a summary showing the percentage of the tract to be occupied by buildings, parking and other paved vehicular areas, and the usable open space.

14.4 Development Bonus.

14.4.1 An owner or owners of land in an R-1, R-2 or R-3 District may, in connection with the submission of an application for a special permit to the Board of Appeals or of a plan to the Planning Board, pursuant to the requirements for particular uses within such districts, apply to the Board of Appeals for a special permit to increase the number of dwelling units which would otherwise be permitted under this Bylaw up to a maximum of the lesser of 20% of the units otherwise permitted on the tract under this Bylaw or ten (10) units, provided that the applicant demonstrates to the satisfaction of the Board of Appeals that at least 50% of such additional dwelling units to be constructed in the development will be made available on a continuing basis to persons of low or moderate income.

14.4.2 No development shall take place pursuant to a special permit granted by the Board of Appeals under this Section 14.4 until

and unless a site plan is submitted to and approved by the Planning Board under Section 17 below.

14.4.3 In the event that a special permit for a development bonus is granted under this Section 14.4., the lot area, frontage, width of lot at building and yards of the development shall be as shown by a site plan submitted to and approved by the Planning Board under Section 17 below, which site plan shall conform generally to the pattern of development permitted in the district in which the land lies with such deviations as are reasonable, in the judgment of the Planning Board, to permit the increased density.

What year was the inclusionary/incentive provision adopted?

Email from Mark Whitehead, Town Planner, on 6/3/05:

"Section 14 has been on the books for quite a while, however I don't think it has ever been used. I could not find what year it was adopted."

Have affordable units been developed through this zoning mechanism?

No Email from Mark Whitehead, Town Planner, on 6/3/05:

"Section 14 has been on the books for quite a while, however I don't think it has ever been used. I could not find what year it was adopted."

Littleton

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

No

What year was the inclusionary/incentive provision adopted?

Have affordable units been developed through this zoning mechanism?

Lowell

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

No

What year was the inclusionary/incentive provision adopted?

Have affordable units been developed through this zoning mechanism?

Lunenburg

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

Yes What follows are the two sections (Lake Whalom Overlay District and Mixed Residential Development) that mention affordable housing.

Town of Lunenburg Protective Zoning Bylaw (Amended 2004)

4.12. Lake Whalom Overlay District

4.12.1. Purpose

4.12.1.1. The purpose of the Lake Whalom Overlay District is to provide for the coordinated development of the former amusement park area and its adjacent area in a manner which will protect the historic features of the area, provide housing, encourage sound economic development, protect the adjacent natural features and Town properties, all with minimum environmental and traffic impacts.

4.12.2 Location

4.12.2.1. The Lake Whalom Overlay District includes the area bounded as follows...

4.12.3 Permitted uses

4.12.3.1. All uses of the underlying districts, subject to the restrictions and provisions of the underlying district except for those uses permitted by Section 4.2.3.1.a) 4.6.3.1.j.),l) and m).

4.12.4. Uses Permissible by Special Permit granted by the Planning Board.

4.12.4.1. Town houses, and garden apartment limited to four (4) units per structure.

4.12.4.2 Recreation facilities...

4.12.5 Conditions of Use

4.12.5.1. All uses are subject to the provisions of Section 8.4.

4.12.5.2. The dimensional requirements of Section 5.0. can be modified by the Planning Board in connection with a Special Permit or a Development Plan Review, if

- a) the development plan is for more than ten (10) acres, and
- b) the use or uses are connected to municipal sewer and
- c) at least ten (10) percent of the residential portion, if any, is limited in perpetuity to occupancy by persons fifty-five (55) years or more of age or qualifying for affordable units as defined by the Commonwealth.

5.4. Purpose: Mixed Residential Development ...

5.4.1.4. Affordability Guarantee

a) All units to be sold as affordable shall contain deed restrictions guaranteeing that the unit shall remain affordable for a period of not less than twenty (20) years from first occupancy or such period as defined by the Commonwealth of Massachusetts for affordable housing. Said deed restrictions shall guarantee that during the period in which the unit must remain affordable, it may be sold only at a price that allows the seller to realize a return on improvements and a reasonable rate of appreciation according to the Consumer Price Index between the time of purchase and the sale. The deed restrictions shall also guarantee that any purchaser of the unit within the twenty (20) year period shall meet the then qualifying income and any other eligibility guidelines for purchase of affordable housing as set forth by the Lunenburg Housing Partnership or such board or authority as is designated by the Board of Selectmen.

b) Eligibility for purchase or lease of affordable units shall be determined by the Town of Lunenburg acting through the Lunenburg Housing Partnership, if any, or such board or authority as is designated by the Board of Selectmen and according to the definitions established by the Commonwealth of Massachusetts.

c) Eligibility for purchase or lease of affordable units after the initial sale or lease shall be determined by the Town of Lunenburg acting through the Lunenburg Housing Partnership, if any, or such board or authority as is designated by the Board of Selectmen. Said Housing Partnership board or authority shall review eligibility and provide written response within thirty (30) days of receipt of the request for determination of eligibility.

And provided that

- a) the density shall not be more than eight (8) units per acre, and
- b) there shall not be more than two (2) bedrooms per unit. Consideration shall be given to preserving some of the previous character of the area as an amusement park, such as signing or markers, maintaining, a feature of the park or other historic structures.

**Webmasters Note: The previous section 4.12 has been added as per Case No. 2118 from town meeting dated 5/4/02.

From: anna@pioneerinstitute.org [mailto:anna@pioneerinstitute.org]
Sent: Monday, November 29, 2004 3:26 PM
To: Benson, Marion
Cc: anna@pioneerinstitute.org
Subject: Time Sensitive Housing Survey

[...]

If your town has inclusionary/affordable housing (aside from 40B), what year was it created and what have the results been?

From: Marion Benson [mailto:mbenson@lunenburgonline.com]
Sent: Thursday, December 09, 2004 4:19 PM
To: anna@pioneerinstitute.org
Subject: RE: Time Sensitive Housing Survey

We are working with developer to extract some affordable/moderate housing in development. ZBA is in review for the first sizable 40B.

Survey received from Marion Benson, Chair of the Planning Board:

Does the municipality offer a "density bonus" (increase in the allowed number of units in a project) in exchange for designation of affordable units?

"Yes Mixed Residential Bylaw"

What year was the inclusionary/incentive provision adopted?

Have affordable units been developed through this zoning mechanism?

In response to the question "If your town has inclusionary/affordable housing (aside from 40B), what year was it created and what have the results been?" sent in an email, Marion Benson wrote (12/9/04): "We are working with developer to extract some affordable/moderate housing in development. ZBA is in review for the first sizable 40B."

Lynn

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

No

What year was the inclusionary/incentive provision adopted?

Have affordable units been developed through this zoning mechanism?

Lynnfield

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

No Inclusionary zoning is discussed in the Town of Lynnfield's 2002 Master Plan, but is not part of their Zoning Bylaw.

From the Master Plan (p. 141):

"As mentioned, one of the problems of inclusionary zoning (and incentive zoning) in Lynnfield is the limited amount of land remaining for residential development. Because both types of provision create no more than 10% to 20% affordable units in developments (assuming they are sales and not rental units), they are not likely to create more than 40 to 80 units before all the developable land is gone. A proactive approach in obtaining affordable housing sites and developing properties that are 100% affordable will better meet the objective of creating enough affordable housing."

(p. 164)

"5. Comprehensive Zoning: A comprehensive zoning bylaw should be drafted and presented to Town Meeting. This bylaw should require that all new developments of five or more units include at least 1 affordable unit or 15%, whichever is greater."

What year was the inclusionary/incentive provision adopted?

Have affordable units been developed through this zoning mechanism?

Malden

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

No

What year was the inclusionary/incentive provision adopted?

Have affordable units been developed through this zoning mechanism?

Manchester-by-the-Sea

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

No

What year was the inclusionary/incentive provision adopted?

Have affordable units been developed through this zoning mechanism?

Mansfield

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

Yes Town of Mansfield Zoning Bylaw

INCLUSIONARY HOUSING R"> 6.0 INCLUSIONARY HOUSING REQUIREMENT

6.1 Purpose

The purposes of the inclusionary housing bylaw are to produce high-quality dwelling units affordable to low- or moderate-income households, to encourage the provision of more housing choices in Mansfield, to promote geographic distribution of affordable housing units throughout the town and avoid over-concentration, to prevent the displacement of low- or moderate-income residents of Mansfield, to assist the Town in addressing "local housing need" as defined in G.L. c.40B, Sections 20-23, and to assist the Town in implementing its Affordable Housing Plan.

6.2 Definitions

6.2.1. ACCESSIBLE : As applied to the design, construction, or alteration of a dwelling unit, accessible housing is a housing unit that can be approached, entered, and used by individuals with mobility impairments.

6.2.2 AFFORDABLE HOUSING TRUST FUND : A fund account established and operated by the Town for the exclusive purpose of creating or preserving affordable housing opportunities in the Town of Mansfield.

6.2.3 AFFORDABLE HOUSING UNIT : A dwelling unit that is affordable to and occupied by a low- or moderate-income household, meets the definition of low- or moderate- income housing at 760 CMR.31.02, and is eligible for inclusion in the Chapter 40B Subsidized Housing Inventory through the Local Initiative Program.

6.2.4 AFFORDABLE HOUSING RESTRICTION : A contract, mortgage agreement, deed restriction, or other legal instrument, acceptable in form and substance to the Town of Mansfield, that effectively restricts occupancy of an affordable housing unit to qualified purchaser or qualified renter, and which provides for administration, monitoring and enforcement of the restriction during the term of affordability. An affordable housing restriction shall run with the land in perpetuity or for the maximum period of time allowed by law, so as to be binding on and enforceable against any person claiming an interest in the property. An affordable housing restriction shall be enforceable under the provisions of G.L. c.184, Section 32, and be approved by the Department of Housing and Community Development through the Local Initiative Program.

6.2.5 DWELLING UNIT : A dwelling unit or a unit within an assisted living facility.

6.2.6 LOCAL INITIATIVE PROGRAM : A program administered by the Massachusetts Department of Housing and Community Development (DHCD) pursuant to 760 CMR 45.00 to develop and implement local housing initiatives that produce low- and moderate-income housing.

6.2.7 LOW- OR MODERATE-INCOME HOUSEHOLD : A household with income at or below 80% of area median income, adjusted for household size, for the metropolitan or non- metropolitan area that includes the Town of Mansfield as determined annually by the U. S. Department of Housing and Urban Development (HUD).

6.2.8. MAXIMUM AFFORDABLE PURCHASE PRICE OR RENT : A selling price or monthly rent, exclusive of utilities, that meets the maximum purchase price or rent guidelines of the Local Initiative Program.

6.2.9 QUALIFIED PURCHASER : A low- or moderate-income household that purchases and occupies an affordable housing unit as its principal residence.

6.2.10 QUALIFIED RENTER : A low or moderate-income household that rents and occupies an affordable housing unit as a tenant.

6.2.11 SUBSIDIZED HOUSING INVENTORY : The Department of Housing and Community Development Chapter 40B Subsidized Housing Inventory as provided in 760 CMR 31.04

6.3 Applicability

6.3.1 This Bylaw applies to all developments involving the creation of six (6) or more dwelling units or six (6) or more lots for residential use. Developments may not be segmented to avoid compliance with this Bylaw.

6.3.2 This Bylaw does not apply to any development for which a complete application for a special permit, a subdivision of land, or a plan of land that does not require Planning Board approval under G.L. c.41, Section 81P has been submitted to the Town Clerk prior to the adoption of this Bylaw by Town Meeting.

6.4. Mandatory Provision of Affordable Housing Units

In any development subject to. this Bylaw, the sixth housing unit and every seventh unit thereafter shall be an affordable housing unit. Nothing in this section shall preclude a developer from providing more affordable housing units than required under the provisions of this Bylaw.

6.5. Methods of Providing Affordable Housing Units

The Planning Board, in its discretion, may approve one or more of the following methods, or any combination thereof, for the provision of affordable housing units by a development that is subject to this Bylaw.

6.5.1. The affordable housing units may be constructed or rehabilitated on the locus of the development.

6.5.2. The affordable housing units may be constructed or rehabilitated on a locus different than that of the development. The Planning Board, in its discretion, may allow a developer of non-rental dwelling units to develop, construct or otherwise provide affordable units equivalent to those required by this Bylaw in an off-site location in the Town of Mansfield. All requirements of this Bylaw 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 shall be approved by the Planning Board as an integral element of the development review and approval process.

6.5.3. A donation of land may be made in lieu of providing affordable housing units. An applicant may offer, and the Planning Board may accept, subject to approval of the Board of Selectmen, donations of land in fee simple, on- or off-site, that the Planning Board determines are suitable for the construction of affordable housing units. The value of donated land shall be equal to or greater than the value of the construction or set-aside of the affordable units. The Planning Board may require, prior to accepting land as satisfaction of the requirements of this Bylaw, that the applicant submit appraisals of the land in question, as well as other data relevant to the determination of equivalent value.

6.5.4. An equivalent fee in lieu of units may be made. The Planning Board, in its discretion, may allow a developer of non-rental dwelling units to make a cash payment to the Town through its Affordable Housing Trust Fund for each affordable unit required by Section 6.4. The cash payment, or equivalent value in land or buildings, shall be equal to the difference between the median single-family home sale price in Mansfield for the most recent three fiscal years, as determined by the Board of Assessors, and the price of an affordable housing unit for a qualified purchaser, assuming a household size of 1.49 persons per bedroom rounded to the nearest whole person.

6.6. General Provisions

6.6.1. The Planning Board shall be charged with administering this Bylaw and shall promulgate rules and regulations to implement its provisions, including but not limited to submission requirements and procedures, methods of setting the maximum affordable sale price or rent, minimum requirements for a marketing plan, and documentation required by the Town to qualify the affordable housing units for listing on the Chapter 40B Subsidized Housing Inventory.

6.6.2. Affordable dwelling units shall be dispersed throughout the building(s) in a development and shall be comparable to market housing units in terms of location, quality and character, room size, bedroom distribution, and external appearance.

6.6.3. The Planning Board, in its discretion, may require the provision of an accessible unit(s), up to 5% of the total number of units, and may designate when the unit(s) shall be provided during the construction process.

6.6.4. The selection of qualified purchasers or qualified renters shall be carried out under a marketing plan approved by the Planning Board. The duration and design of this plan shall reasonably inform all those seeking affordable housing, both within and outside the Town, of the availability of such units. The marketing plan must describe how the applicant will accommodate local preference requirements, established by the Board of Selectmen, in a manner that complies with the nondiscrimination in tenant or buyer selection guidelines of the Local Initiative Program.

6.6.5. Developers may sell affordable units to the Town of Mansfield, the Mansfield Housing Authority, the Mansfield Housing Corporation, or to any non-profit housing development organization serving Mansfield, in order that such entity may carry out the steps needed to market the affordable housing units and manage the choice of buyers.

6.7. Timing of Construction

6.7.1. Where feasible, affordable housing units shall be provided coincident to the development of market-rate units, but in no event shall the development of affordable units or payment of fees in lieu of providing affordable units be delayed beyond the schedule below. Fractions of units shall not be counted.

6.7.2. Certificates of Occupancy for any market-rate housing units shall be issued at a ratio of Certificates of Occupancy for required affordable housing units or fees paid in lieu of units in accordance with the schedule above.

6.8. Preservation of Affordability; Restrictions on Resale

6.8.1. An affordable housing unit created in accordance with this Bylaw shall be subject to an affordable housing restriction or regulatory agreement that contains limitations on use, resale and rents. The affordable housing restriction or regulatory agreement shall meet the requirements of the Town and the Local Initiative Program, and shall be in force for the maximum period allowed by

law.

6.8.2. The affordable housing restriction or regulatory agreement shall be enforceable under the provisions of G.L. c.184, Section 32.

6.8.3. The Planning Board shall require that the applicant comply with the mandatory provision of affordable housing units and accompanying restrictions on affordability, including the execution of the affordable housing restriction or regulatory agreement.

6.8.4. All documents necessary to ensure compliance with this Bylaw shall be subject to the review and approval of the Planning Board and, as applicable, Town Counsel. Such documents shall be executed prior to and as a condition of the issuance of any Certificate of Occupancy.

6.9. Severability, Conflict with Other Laws

6.9.1. To the extent that a conflict exists between this Bylaw and other bylaws of the Town of Mansfield, the more restrictive provisions shall apply.

6.9.2. If a court of competent jurisdiction holds any provision of this Bylaw invalid, the remainder of the Bylaw shall not be affected thereby. The invalidity of any section or sections, or parts of any section or sections, of this Bylaw shall not affect the validity of the remaining sections or parts of sections or the other bylaws of the Town of Mansfield.

**Webmasters Note: The previous section, 6.0, has been added and the following section renumbered as per an update approved at a town meeting held on 4/13/04.

What year was the inclusionary/incentive provision adopted?

2004 **Webmasters Note: The previous section, 6.0, [INCLUSIONARY HOUSING R"> 6.0 INCLUSIONARY HOUSING REQUIREMENT] has been added and the following section renumbered as per an update approved at a town meeting held on 4/13/04.

Have affordable units been developed through this zoning mechanism?

No Town planning director Shaun Burke (10/26/04) said that the town has yet to implement inclusionary zoning (the by-law was recently passed.) He expects that it will be triggered in the "not too distant future."

Marblehead

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

Yes From ordinance.com:

§ 200-38. Special permit for incentive zoning.

An applicant may seek a special permit for incentive zoning to increase density or intensity of use to a level greater than that allowed by right in the zoning district in which the residential development is located or may grant an exception to vary minimum lot and yard dimensions.

A. Applicability. The Planning Board shall determine whether to grant, grant with conditions or deny special permits for incentive zoning to any residential development containing 10 or more dwelling units allowed as a matter of right to the following housing uses:

- (1) Semidetached dwellings;
- (2) Single-family dwellings; and
- (3) Two-family dwellings.

B. Purpose. The purpose of this section is to promote the general purposes and intent of this Bylaw and to:

- (1) Encourage a greater diversity of housing accommodations; and
- (2) Promote a reasonable mix and distribution of housing opportunities in residential neighborhoods throughout the Town; and
- (3) Increase the supply of housing in the Town that is available to and affordable by low- and moderate-income households; and
- (4) Ensure that such housing is affordable over the long term.

C. General requirements. The maximum density in any project shall not exceed 12 units per acre including housing units created by new construction or by conversion of a nonresidential structure to housing use.

D. Target group is low and moderate income. For purposes of this article, "area" shall mean the Salem-Gloucester Standard Metropolitan Statistical Area and "low, moderate, and upper-moderate income" shall mean:

- (1) Low income: 50% area median.

(2) Moderate income: 51% to 80% area median.

(3) Upper-moderate income: 81% to 100% area median.

E. Affordable units.

(1) Applicants are required to set aside 10% of the units in the development as affordable units, based on the following:

(a) Of the affordable units, 25% shall serve low-income households, 50% shall serve moderate-income households, and 25% serve upper-moderate-income households.

(b) Except as otherwise provided by the Planning Board, affordable units shall contain two or more bedrooms and shall be suitable in type and design for families with children.

(c) When located in the same development with market-rate housing units, affordable units shall be compatible with, and indistinguishable from, the market-rate units with regard to exterior appearance, interior size and design, and basic amenities.

(d) Affordable units shall be permanent in duration to the extent allowed by law.

(2) At the discretion of the Planning Board, applicants may be allowed to set aside a lower percentage of units, under the following conditions:

(a) A higher percentage of units are targeted toward low-income households;

(b) A higher percentage of units are multi-bedroom units suitable for large families;

(c) A percentage of units are designed and constructed to accommodate persons with special needs; and/or

(d) No public subsidies are available and the Planning Board determines a lower percentage of units is necessary to make the project economically feasible.

(3) Conversely, the Planning Board may require that a higher proportion of units be set aside where:

(a) Fewer low-income units are proposed;

(b) Fewer multi-bedroom units are proposed; and/or

(c) High levels of subsidy are available.

(4) Nothing in this section shall preclude a petitioner from setting aside more than the required number of affordable units or from setting aside additional units for higher but limited income groups.

(5) In determining the total number of affordable units required, a fractional unit of 0.5 or more shall be regarded as a whole unit.

(6) Alternative contribution methods. At the option of the Planning Board, the requirements of this section may be met through one or more of the methods below or through a combination of these methods and on-site units, provided that the alternative proposed is found by the Planning Board to be advantageous to the Town in creating or preserving affordable housing, and does not result in undue concentration of affordable units. Affordable units provided through the alternative methods below shall comply in all respects other than on-site location with the requirements of this section.

(a) Off-site location. Some or all of the affordable units may be located on an alternative site or sites suitable for housing use in Marblehead, preferably in the same neighborhood as provided that such units are at least equal in number to the affordable units that would have been provided on site.

(b) Cash payment. Petitioner may provide a cash payment to the Town of Marblehead or its designee in an amount that is at least equivalent to the cost of providing the required affordable units on site. Such payments shall be used for the sole purpose of providing or preserving housing targeted to income groups identified in this section.

F. Submission requirements:

(1) A site plan of the proposed development and all information listed in Article X, Site Plan Approval;"

(2) Plans defining the locations and numbers of affordable housing units;

(3) The sales or rental price of each inclusionary housing unit as defined by this article, according to the current guidelines established by MHFA and EOCD;

(4) List of all other special permit(s) or variances requested;

(5) In instances where affordable units are being subsidized by a state or federal agency, a letter of commitment, to the extent possible.

G. Standards for special permits for incentive zoning. The Planning Board shall, in reviewing an application for a special permit under this article, consider the standards listed in §§ 200-36B and 300-37C.

H. Conditions for special permits for incentive zoning. The Planning Board may impose any conditions deemed necessary to achieve the purposes of this Bylaw.

What year was the inclusionary/incentive provision adopted?

1996

Have affordable units been developed through this zoning mechanism?

No According to Rebecca Curran, Planner Town of Marblehead, (6/28/04), there have not been any affordable units built under the inclusionary zoning provisions. The only affordable units built have come under 40B.

Marlborough

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

Yes City of Marlborough Zoning Ordinance

Article VI, Section 200-26. Affordable Housing

A. All Special Permits granted to applicants to construct multifamily dwellings, thereby increasing the number or density of residential dwellings to a number or level greater than that allowable as a matter of right under the zoning classification for the subject parcel, shall require the following:

(1) Developments of twenty (20) or more units.

(a) Number of Affordable Units. The development shall provide that at least 15% of the dwelling units to be constructed for home ownership or rental purposes will be made available at affordable prices to home buyers or renters, or a sum not less than the total cost necessary for land acquisition and construction of said numbers of affordable units shall be paid to the Marlborough Community Development Authority Housing Division for the purpose of construction or acquisition of affordable housing.

(b) Local Preference. The development plan shall provide that all legally permissible efforts shall be made to provide 70% of the affordable dwelling units to eligible residents of the City of Marlborough.

(c) Distribution of Affordable Units. Dwelling units to be sold or rented at affordable prices shall be integrated into the overall development to prevent physical segregation of such units.

Article VI, Section 200-27. Comprehensive Developments.

A. Purpose and Objectives. The City Council may grant Special Permits exempting Comprehensive Developments from certain regulations and restrictions contained in this Chapter provided that said Comprehensive Developments satisfy the terms and conditions which may properly be imposed pursuant to this Section.

(1) Purpose. The purpose of this Section is to increase the number of affordable dwelling units in the City to a number which meets the requirements of Chapter 40B of the General Laws.

(2) Objectives. The Special Permit procedure established hereby is intended to accomplish this purpose while meeting the following objectives:

(a) To provide a Special Permit procedure administered by the City Council, as preferred local alternative to Comprehensive Permits authorized by MGL Chapter 40B.

(b) To provide local zoning standards by which to evaluate said Special Permits and to encourage a more efficient review process by clearly specifying local requirements in advance of applications for applicable permits.

(c) To provide for a variety of housing, particularly affordable housing, by special incentives allowing less restrictive development standards, including a moderately higher density than would otherwise be allowed.

(d) To equitably distribute affordable housing developments throughout the City's neighborhoods, in small to medium sized projects dispersed widely so as to avoid large concentrations in any area.

(e) To encourage the construction and location of affordable housing on certain sites without undesirable impacts on abutting uses

or the neighborhood in terms of conflicting uses, visual impact, traffic impact or the like.

- (f) To provide affordable housing which conserves environmental features, woodlands, wetlands and areas of scenic beauty and preserves sites and structures of historical importance.
- (g) To provide affordable housing on sites which will not displace uses allowed as of right which uses would contribute more positively to the City and have been planned for in terms of municipal services and infrastructure.
- (h) To provide affordable housing without imposing an unnecessary increased financial burden on the citizens of the City because of demands for additional municipal services or public improvements.
- (i) To provide affordable housing without threatening the ability of the City to provide bona fide infrastructure and public services to existing and future development on other sites.

B. Special Permit Required.

(1) **Applicability.** In Comprehensive Developments, as specifically permitted by Special Permit in certain zoning districts in 200-17, no building or premises shall be used nor shall any building or structure be constructed or reconstructed except as follows: Provided that a Special Permit is issued by the City Council in accordance with the provisions of this Section, single-family, two-family, and multifamily dwellings, and structures appurtenant thereto, including but not limited to clubhouses (with facilities for serving food and beverages), athletic facilities, parking areas, rest areas, playgrounds, tennis courts, swimming pools and accessory storage facilities, shall be the only permitted uses therein.

C. Standards.

- (1) **General Requirements.** As an incentive to encourage the construction of affordable housing, the requirements of this Section shall totally govern the dimensional and locational requirements for Comprehensive Developments unless otherwise provided in this Section. Other provisions of Article VII of this Zoning Ordinance shall not apply to affordable housing developments. All the provisions of Article VIII for Special Permits shall apply to Comprehensive Developments.
- (2) **Review Standards.** It is not the intent of this Section that developments meeting the standards provided hereinafter shall receive automatic approval nor that the standards be applied inflexibly in every instance. Each project shall undergo review and be judged on its merits. In applying these standards, the most restrictive provisions of this Section shall apply.
- (4) **Location and Impact of Comprehensive Developments.**
 - (a) **Impact on Sensitive Areas.** Comprehensive Developments shall avoid impacts to the extent possible on environmentally sensitive areas, such as floodplains, wetlands, groundwater recharge areas, aquifers, areas feeding drinking water supply or recreation water bodies, and significant woodlands, hillsides or other natural features.
 - (b) **Impact on Infrastructure.** Comprehensive Developments shall avoid areas which have public infrastructure or services incapable of serving the increased density of such developments without imposing significant increased public expense that would otherwise be unnecessary for uses built at densities permitted as of right (for example, inadequate roads, utilities or schools). Applicants may downsize their projects or improve the infrastructure to meet this criteria.
 - (c) **Site Suitability.** Comprehensive Developments shall strive to avoid sites which are clearly better suited for uses permitted as-of-right by zoning and planned for those sites by the City in terms of roads, utility, infrastructure and site characteristics.
- (5) **Project Size.** The maximum number of dwelling units (affordable and market rate) in any Comprehensive Development shall be 175 on any lot or any combination of contiguous lots, and the minimum number shall be 9.
- (6) **Concentration.** So that Comprehensive Developments are not unduly concentrated in the same areas of the City, they shall be located so that they meet all the following criteria:
 - (a) **Density of Comprehensive Development:** The maximum density of all dwelling units (market rate and affordable) located within all Comprehensive Developments shall be no more than 250 units per square mile, measured within a one-half-mile radius from the center of any such development. This provision shall not apply within the inner City, as defined in the following subsection:
 - (i) The "inner City" shall be defined as the RB, RC and CA zoned districts, existing as of January 1, 1988, including the Business District between Lakeside Avenue and Clinton Street.
 - (b) **Proximity of Comprehensive Developments.** The minimum distance between Comprehensive Developments shall be as specified in the following table. Said distance shall be measured between the closest dwelling units in each development. The inner-City shall be as defined in Subsection C(6)(a)(1).
 - (7) **Density Relief.** A development seeking an increase in the density allowed as of right for a particular parcel of land may not exceed the density allowed by right or by Special Permit in the District in which it is located except as provided for in the following Subsection.
 - (8) **On-Site Dimensional Regulations.**
 - (a) **Purpose.** The purpose of the following dimensional regulations shall be to allow an appropriate increase in density as an incentive for affordable housing, but not so great as to cause an undue impact on, or conflict with, the surrounding neighborhood density. This density increase will permit sufficient affordable units to meet the minimum 10% required by MGL Chapter 40B,

throughout the entire City.

(9) Affordable Units.

(a) Type of Housing. "Affordable Housing" shall mean sale or rental housing as defined in Article II 200-05, of this Chapter.

(b) Non-family Housing. This Section shall apply only to affordable housing for families and not to sites for elderly or special needs housing built by or for the Marlborough Community Development Authority.

(e) Provisions for Housing Authority Ownership.

(i) New Construction; For-Sale Units. The applicant shall offer to the Community Development Authority not less than 5% of the newly constructed home-ownership affordable units. The Community Development Authority may opt to purchase (by signing a right of first refusal) any or all of the units offered subject to available funding.

(ii) Expiration of Affordability; For-Sale Units. If and when any home-ownership affordable units are converted to market rate units, the Marlborough Community Development Authority shall have the right of first refusal to buy said units at the affordable rate established for each of those units in the deed restrictions.

(iii) Expiration of Affordability; Rental Units. Following any required lock-in period requiring rental of any units at affordable or below-market rates, the applicant shall give the Marlborough Community Development Authority the first option to purchase said affordable units at an amount no higher than the purchase limits specified by the Executive Office of Communities and Development or its successor agency for housing units under the Chapter 705 or any successor programs.

AFFORDABLE HOUSING: Sale or rental housing meeting at least the minimum standards established by the Massachusetts Department of Housing and Community Development (DHCD), for household income, unit size, financing and resale controls applicable to low- and moderate-income households or elderly housing, pursuant to MGL C.40B, including future amendments thereto, consistent with the requirements of the particular DHCD program used in conjunction with the applicable project. In no case shall the price of the affordable units be more than eighty percent (80%) of the market sales or rental price of comparable units located within the same project.

There is an incentive to include affordable units in the open space developments:

200-28. Open Space Developments.

(c) Density Bonuses and Incentives. The applicant may apply for density bonuses as an incentive to provide certain amenities which would not otherwise be provided in the Open Space Development. The Planning Board shall authorize an increase in the number of lots of up to fifteen (15) percent above the number otherwise permitted in this Section as specified in the preceding paragraphs (a) and (b), based on the following criteria unless the Planning Board explains in its decision why unusual circumstances cause them to act otherwise:

(i) Affordable Housing. A bonus of one added lot for each affordable housing unit included in the Open Space Development. Said affordable units shall be administered by the Marlborough Housing Partnership or successor agency where applicable. The affordable housing shall meet the following requirements:

[a] The housing shall meet the requirements of the definition of Affordable Housing included in Article Section 200-05.

[b] All affordable housing units shall meet the requirements of Section 200-26.A(1), paragraphs:

- (b) Local preference.
- (c) Distribution of affordable units.
- (d) Appearance.
- (e) Minimum and maximum floor area.
- (f) Period of affordability.
- (g) Limitations on change in affordability.
- (h) Staging of affordable and market rate units.

[c] The affordable housing shall consist of either single family dwellings or single family zero lot line dwellings, as defined in this Chapter. For the purpose of this Section, single family zero lot dwellings shall not be attached to more than one other unit. No multi-family dwelling units shall be permitted. Single family zero lot line dwellings shall be permitted in an Open Space Development solely for the purpose of providing affordable units and shall be designed to appear as attached single family dwellings when viewed from the street, shall fit into the overall design, and shall be reasonably mixed with the single family dwellings.

What year was the inclusionary/incentive provision adopted?

2004 According to the City Clerk's office, the Affordable Housing ordinance was adopted in October 2004.

Note: this may not be correct.

Have affordable units been developed through this zoning mechanism?

Yes Alfred Lima replied that a majority of affordable housing is done under 40B, not Marlborough's Affordable Housing Bylaw. He could think of only 2 specific developments that used this bylaw. Generally, he believes this bylaw to be unsuccessful due to the 15% affordable requirement. (10/2004)

Marshfield

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

Yes Affordable provisions are only part of the Age Restricted Adult Village bylaw.

Town of Marshfield Zoning Bylaw (Amended 2004)

Section 11.08 Age-Restricted Adult Village

2.1. Mandatory Provision of Affordable Units:

The Planning Board shall, as a condition of approval, require that the applicant for special permit approval comply with the obligation to provide affordable housing pursuant to this Bylaw and more fully described in Section 2.2.

2.2. Provision of Affordable Units:

The Planning Board shall deny any application for a special permit for the development of affordable housing if the applicant for special permit approval does not agree that:

2.2.1. At least ten (10) percent of the lots in a division of land or units in a multiple unit development subject to this Bylaw shall be established as affordable housing units in any one or combination of methods provided for below. Fractions of a lot or selling unit shall be rounded up to the nearest whole number, such that a development proposing ten, (10) dwelling units shall require one affordable unit, a development proposing nineteen (19) dwelling units shall require two affordable units and so on.

- a). Constructed or rehabilitated on the locus subject to the special permit;
- b). Constructed or rehabilitated on a locus different than the one subject to the special permit;
- c). An applicant may offer, and the Planning Board, in concert with the Board of Selectmen, may accept, donations of land in fee simple, on or off-site, that the Planning Board determines are suitable for the construction of affordable housing units. The value of donated land shall be equal to or greater than the value of the construction or set-aside of the affordable units. The Planning Board may require, prior to accepting land as satisfaction of the requirements of this Bylaw, that the applicant submit appraisals of the land in question, as well as other data relevant to the determination of equivalent value.
- d). An equivalent fees-in-lieu of payment may be made (See below).

The applicant may offer, and the Planning Board may accept, any combination of the Section 2.2.1.(a)-(d) requirements provided that in no event shall the total number of units or land area provided be less than the equivalent number of value of affordable units required by this Bylaw.

2.3 Provisions Applicable to Affordable Housing Units On- and Off-site:

The Planning Board shall require the applicant to comply with the following provisions:

2.3.1 Siting of affordable units - All affordable units constructed or rehabilitated under this Bylaw shall be situated within the development 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.

2.3.2. 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.

2.3.3. Timing of construction or provision of affordable units or lots -Where feasible, 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:

2.4. Local Preference:

The Planning Board shall require the applicant to comply with local preference requirements, if any, as established by the Board of Selectmen.

2.5. Marketing Plan for Affordable Units:

Applicants under this Bylaw shall submit a marketing plan or other method approved by the Planning Board, 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.

2.6. Provision of Affordable Housing Units Off-Site:

As an alternative to the requirements an applicant subject to this Bylaw may develop, construct or otherwise provide affordable units equivalent to those required off-site. All requirements of this Bylaw 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 Planning Board as an integral element of the special permit review and approval process.

2.7. Maximum Incomes and Selling Prices: Initial Sale:

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 and 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 Marshfield Housing Authority, that his/her or their family's annual income level does not exceed the maximum level as established by the Commonwealth's Division of Housing and Community Development, and as may be revised from time to time.

The maximum housing cost for affordable units created under this Bylaw is as established by the Commonwealth's Division of Housing and Community Development or as revised by the Town.

2.8. Preservation of Affordability; Restrictions on Resale:

Each affordable unit created in accordance with this Bylaw 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 on the property, recorded at the Plymouth County Registry of Deeds or the Land Court, and shall be in force for as long a period as is lawful.

- a). Resale price - Sales beyond the initial sale to a qualified affordable income purchaser shall include the initial discount rate between the sale price and the unit's appraised value at the time of resale. This percentage shall be recorded as part of the restriction on the property noted in Section 1.10. For example, if a unit appraised for \$300,000 is sold for \$225,000 as a result of this Bylaw, it has sold for 75% of its appraised value. If, several years later, the appraised value of the unit at the time of proposed resale is \$325,000, the unit may be sold for no more than \$243,750, or 75% of the appraised value of \$325,000.
- 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, granting, among other things, the Town's right of first refusal for a period not less than one hundred and eighty (180) days to purchase the property of assignment thereof, in the event that, despite diligent efforts to sell the property, a subsequent qualified purchaser cannot be located.
- c). The Planning Board shall require, as a condition for special permit approval under this Bylaw, that the deeds to the affordable housing units contain a restriction against renting or leasing said unit to a tenant who does not meet the eligibility requirements set forward in Sec. 11.08 (2.7) herein during the period for which the housing unit contains a restriction on affordability.
- d). The Planning Board shall require, as a condition for special permit approval under this Bylaw, that the applicant comply with the mandatory set-asides and accompanying restrictions on affordability, including the execution of the deed rider. The Zoning Enforcement Officer shall not issue an occupancy permit for any affordable unit until the deed restriction is recorded at the Plymouth County Registry of Deeds or the Land Court.

2.9. Fees-in Lieu of Affordable Housings Unit Provision:

As an alternative, an applicant may contribute to the Marshfield Housing Trust Fund to be used for the development of affordable housing in lieu of constructing and offering affordable units within the locus of the proposed development or offsite.

a). Calculation of fees-in-lieu of units. The applicant for development subject to this Bylaw may pay fees in lieu of the construction of affordable units. For the purposes of this Bylaw, the fee in lieu of the construction or provision of affordable units is determined to be \$200,000 per unit. For example, if the applicant is required to construct two affordable income units, they may opt to pay \$400,000 in lieu of constructing or providing the units.

b). Schedule of fees in lieu of payments. Fees in lieu of payments shall be paid according to the schedule set forth, above.

**Webmasters Note: The previous subsections, 2.1 through 2.9, have been added as per an update approved at a town meeting held on 4/28/03.

Article II, Definitions

DWELLING UNITS, AFFORDABLE TO LOW TO MODERATE INCOME : Dwelling units that meet the State's affordable housing requirements for low to moderate income. These affordable units shall be marketed through the Marshfield Housing Authority, South Shore Housing Development Corporation, or other housing organization approved by the Board, with resale restrictions to assure continued affordability in perpetuity. Dwelling units reserved for occupancy by persons or families of low to moderate income, or for occupancy by a single individual, shall not be segregated from market rate or larger dwelling units in the development in which they are proposed.

**Webmasters Note: The previous definition has been added as per the 2002 Zoning Update.

Survey received from Marshfield Town Planner Angus Jennings on 6/8/05:

Does the municipality offer a "density bonus" in exchange for designation of affordable units?

"Yes"

What year was the inclusionary/incentive provision adopted?

2003 According to Town Planner Angus Jennings, inclusionary zoning became mandatory in town in 2003. (10/27/04)

Have affordable units been developed through this zoning mechanism?

Yes Town Planner Angus Jennings confirmed (10/27/04) said that three projects have been permitted so far under inclusionary zoning and that they have been for seniors only. Of the three projects, only one is under construction and the lottery is being held tonight (10/27/04) presumably to determine which seniors get the 3 units out of the 22 that have been deemed affordable.

He said that the process has "not gone very well" because it has been a "tremendous strain on staff" but that he expects the end results to be good. He said that he would like a streamlined process that would allow for permits to be granted more collectively rather than having to spend huge amounts of time getting permits in each individual case. He is hoping that the addition of a housing coordinator (hopefully starting work next week) will speed up and improve the process.

Maynard

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

No

What year was the inclusionary/incentive provision adopted?

Have affordable units been developed through this zoning mechanism?

Medfield

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

No

What year was the inclusionary/incentive provision adopted?

Have affordable units been developed through this zoning mechanism?

Medford

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

No Medford Zoning Ordinance, from municode.com, under definitions:

Affordable housing means owner-occupied housing units set aside exclusively for low or moderate income, first-time home buyers, that remain affordable through long-term restrictions.

Lauren DiLorenzo said that Medford does not have inclusionary zoning in the zoning ordinance right now but they are considering it. They have been negotiating affordable units when granting variances rather than including it as a formal provision in zoning. There have been affordable units developed through the informal negotiating process.

What year was the inclusionary/incentive provision adopted?

Have affordable units been developed through this zoning mechanism?

Medway

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

No The ARCPUD provisions refer generally to the purpose of developing affordable housing.

ZONING BY-LAW & MAP
Medway Planning Board

Medway, Massachusetts

Updated – September 3, 2002
(Includes amendments approved by Town Meeting on November 5, 2001, May 13, 2002 and June 24, 2002)

SECTION II. DEFINITIONS
(Amended STM 10/16/00, approved 2/12/01)

AFFORDABLE HOUSING UNIT - A dwelling unit for residents of low or moderate income. Affordable units are administered by the Medway Housing authority or its designee and shall remain as affordable units in perpetuity. These units shall have the same construction methods, physical characteristics as, and be intermingled with other units in the subdivision or development.

**Webmasters Note: The previous definition has been added as per an update approved at a town meeting held on 5/12/03.

T. ADULT RETIREMENT COMMUNITY OVERLAY DISTRICTS (Amended STM 10/16/00, approved 2/12/01)

1. Purpose: The purpose of the Adult Retirement Community Overlay District is to advance the public health, safety, and welfare by specifically providing for the development of retirement communities within Medway that provide a choice of housing opportunities to senior residents and accommodate the long-term social, cultural, recreational, and continuing care needs of these citizens. The specific purposes of the Adult Retirement Community Overlay District are:

- a) To provide for and promote development of alternative housing opportunities for the growing senior citizen population.
- b) To permit a greater variety of housing types than would otherwise be allowed in the underlying zoning district(s), in order to accommodate the housing needs of the senior citizen population.
- c) To enable, through the special permit process by the Planning Board, creative and innovative site planning and development of Medway's limited land resources.
- d) To promote preservation of the rural character of Medway by encouraging property owners and developers to set aside and protect natural open space as part of the land development effort.
- e) To encourage the development of affordable housing for seniors with low and moderate incomes.

4. Adult Retirement Community Planned Unit Development (ARCPUD):

a) Purpose and Intent: The purpose of Adult Retirement Community Planned Unit Development, or ARCPUD, is to encourage development of master-planned residential communities for persons fifty-five (55) years of age and older, by allowing for a greater variety of uses and building types at a higher density than would normally be allowed, and allowing greater flexibility in site planning so as to promote affordable housing and the preservation of open space within the development.

From definitions:

LOW OR MODERATE INCOME - Household income that is 80% or less than the area median household income as determined by the United States Department of Housing and Urban Development (HUD), the in effect.

**Webmasters Note: The previous definition has been added as per an update approved at a town meeting held on 5/12/03.

Note: person who answered the phone at the Planning Board on 4/15/05 said that Medway has an affordable housing study group. They expect to put something forward for consideration this year.

What year was the inclusionary/incentive provision adopted?

Have affordable units been developed through this zoning mechanism?

Melrose

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

Yes Denise Gaffey, planner, (6/23/04) indicated that the current incentive zoning program is done through the Design Review Special Permit Process. There is an updated version of this program currently in front of the Aldermen to approve.

Zoning Ordinance of the City of Melrose, Massachusetts, Article XI, Section 11.6 (Adopted 1972):

General. The Planning Board as the Special Permit Granting Authority, may authorize a special permit designated a Design Review Permit to increase the permissible density of population or intensity of a particular use in a proposed development; provided that the petitioner or applicant shall, as a condition for the grant of said permit, provide certain open space, housing for persons of low or moderate income, traffic or pedestrian improvements or other amenities."

Additionally, according to the same section of the ordinance, "Said Design Review Permits may be applied for only in UR-D, BA-1, and BB-1 zones as located on the zoning map."

What year was the inclusionary/incentive provision adopted?

2004 According to survey received from Melrose on 4/22/05, the inclusionary/incentive provisions were adopted in 2004.

Have affordable units been developed through this zoning mechanism?

No Holly Killmer, the Assistant Planner City of Melrose, (6/23/04) said that there are three projects in the works under these provisions to be completed in the next couple of years. The total number of affordable units created under these three projects is about 18. One of the projects, the Pembroke, will count as 40 affordable housing units under 40B.

According to survey received from Melrose on 4/22/05: "Not yet. We will have 5 units come on line in 2005 that were require through Design Review Special Permit which allows for increased zoning. We should have a few units come on line through the new Inclusionary zoning ordinance in 2005 or 2006.

Mendon

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

Yes Town of Mendon Zoning Bylaw (Amended 5/2004, faxed copy, transcribed here)

"Section XIV Affordable Housing Overlay District

A. Purpose. The purpose of this section XIV, Affordable Housing Overlay District, is to create a zoning overlay district to encourage the development of housing units affordable by households of low and moderate income, with the goal, among others, of reducing the deficit in such housing within the Town of Mendon as defined by Chapter 40B of the Massachusetts General Laws.

The Town of Mendon recognizes the need to encourage the development of housing that is considered "affordable" for a variety of income levels but at the same time, the Town of Mendon desires to site such typically higher density housing in a responsible manner that is least detrimental to the Town. [...Definitions ...]

C. Minimum Requirements: Minimum dimensional requirements within the Affordable Housing Overlay District are:

1. No part of any pond, stream, river, swamp, or wetlands shall be included as part of a lot for the purpose of determining the minimum dimensional requirements of the lot.
2. Front, side and rear yard setbacks, minimum lot size and minimum frontage of the proposed development will be determined through the Special Permit process described in Section XIV subsection
3. The number of dwelling units allowed in each development constructed under this section shall not exceed by more than 33 percent the number permitted within the Town's residential zoning district. A minimum of 25 percent of the dwelling units within each development constructed under this section shall meet the definition of "Low and Moderate Income Housing;" that is, sales and rental housing, whether privately or publicly developed and/or operated, intended to serve households at or below 80 percent (80%) of Area Median Income as defined by the U.S. Department of Housing and Urban Development (HUD), are subject to long-term deed restrictions to preserve affordability, and are marketed in accordance with Fair Housing law requirements." [... Special Permit process ...]

· Is provision of affordable units mandatory or incentive-based?

Mandatory.

Are units built under inclusionary zoning restricted to purchase for owner-occupancy?
No. units can be publicly or privately developed and/or operated.

· What structure types (SF detached, SF attached, accessory apartments, MF) can be built?
Not specified. Dwelling units may not exceed by more than 33 percent the number of dwelling units permitted within the Town's residential zoning district. (60,000 sf for single family, 80,000 sf for two-family). Since two-family housing is permitted in the residential district, it would be possible to build three-family housing under this provision.

· For what length of time must affordability be maintained on the units?
"long-term" - the units "are subject to long-term deed restrictions to preserve affordability." (XIV.C.3)

· Do developers have options other than building affordable units on site (i.e. building affordable units on another site in the town, donating land or cash to the town/housing authority in lieu of including affordable units)?
None specified.

· Are affordable units intended for households with low incomes (up to 80% AMI), moderate (80 to 120 or 140% AMI), or both low and moderate? If a different definition of qualifying income is given, what is the definition?
Up to 80% AMI.

What year was the inclusionary/incentive provision adopted?

2004 Affordable Housing Overlay District approved at Town Meeting 5/7/04.

Have affordable units been developed through this zoning mechanism?

No Too early to have any impact.

Merrimac

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

Yes Merrimac Zoning Bylaw 2004

From definitions:

AFFORDABLE HOUSING : As used in this Bylaw, "affordable housing" is sub-classified as "low- and moderate-income housing" and "BELOW-MARKET housing," according to the following meanings:

1. LOW- OR MODERATE-INCOME housing: housing occupied by households with incomes at or below 80% of area median income, as determined and published from time to time by the U.S. Department of Housing and Urban Development. Low- and moderate-income housing must meet the requirements of the Local Initiative Program, 760 CMR 45.00, and be approved for inclusion in the SUBSIDIZED HOUSING INVENTORY under G.L. c.40B, Sections 2023, prior to the issuance of an occupancy permit. A housing unit will generally be considered affordable to low- or moderate-income households if its sale or rental price is equal to or less than 30% of gross monthly income for a low- or moderate-income household whose household size is suitable for the proposed dwelling unit. To comply with this Bylaw, a low- or moderate-income housing unit must be protected by a USE RESTRICTION that meet the requirements of 760 CMR 45.00 (Local Initiative Program) and qualifies as an affordable housing restriction under G.L. c.184. (See also, USE RESTRICTION.)

2. BELOW-MARKET HOUSING: housing units affordable to households with incomes between 81-100% of area median income, as determined and published from time to time by the U.S. Department of Housing and Urban Development. A housing unit will generally be considered affordable at below-market rates if its sale or rental price is equal to or less than 30% of gross monthly income for a median-income household whose household size is suitable for the proposed dwelling unit.

ARTICLE 4. VILLAGE RESIDENTIAL DISTRICT (VR)

4.11. Regulations for Infill Residential Uses.

4.11.7. AFFORDABLE HOUSING Requirements. An infill residential use must provide housing that meets the following requirements:

4.11.7.1. Low- and moderate-income housing eligible for listing on the Chapter 40B SUBSIDIZED HOUSING INVENTORY, i.e., affordable to households with incomes at or below 80% of area median income.

4.11.7.2. "BELOW-MARKET" housing units affordable to households with incomes between 81-100% of area median income.

4.11.7.3. The affordable housing requirements shall be met according to the following schedule of uses:

[table]

4.11.7.4. All low- and moderate-income housing units must be approved for listing on the Chapter 40B SUBSIDIZED HOUSING INVENTORY through the DHCD Local Initiative Program, 760 CMR 45.00. No occupancy permit shall be issued for an infill residential use until the applicant has submitted the following documentation in a form satisfactory to the BUILDING COMMISSIONER:

4.11.7.5. Affordable Housing Use Restriction:

The applicant shall have recorded a USE RESTRICTION or regulatory agreement at the Registry of Deeds. Model use restrictions for low- and moderate-income units and below-market units shall be supplied by the Planning Board and incorporated in the Planning Board's Infill Residential Use regulations.

ARTICLE 15. OPEN SPACE-RESIDENTIAL DEVELOPMENT

15.13. Development Incentives.

The Planning Board may authorize an increase in LOTS or dwelling units up to a maximum of fifty (50%) percent, when all of the units in the OSRD are restricted for occupancy by over-55 households and at least one of the following conditions is met:

15.13.1. The applicant proposes an increase in open space above the fifty percent (50%) minimum and preserves significant natural resources, in the opinion of Planning Board, or

15.13.2. The applicant sets aside ten percent (10%) or more of LOTS or dwelling units on the site for affordable housing for LOW- AND MODERATE-INCOME households. Such units must be eligible for listing on the SUBSIDIZED HOUSING INVENTORY under G.L. c.40B, Sections 20-23, in accordance with the requirements of the Local Initiative Program (LIP) at 760 CMR 45.00, as may be amended. The Planning Board shall review and approve the actual percentage distribution of qualifying low- and moderate-income units.

15.14. Affordable Housing.

Units set aside as housing affordable to low- and moderate-income households shall have a GROSS FLOOR AREA comparable to market-rate units and shall be integrated into the development and not grouped together. When viewed from the exterior, the affordable units shall be indistinguishable from the market-rate units. The developer shall provide adequate guarantee, acceptable to the Planning Board, to ensure the continued availability and affordability of the units. At minimum, this guarantee will meet LIP requirements in effect when the Planning Board approves the SPECIAL PERMIT. The Planning Board may place conditions on the SPECIAL PERMIT to assure appropriate phasing of market-rate and affordable unit construction

17.4. Conversion to Two-Family or Multi-Family Dwellings.

17.4.1. The intent and purpose of this section is to allow for conversions of older single-family dwellings to TWO-FAMILY DWELLINGS of MULTI-FAMILY dwellings of no more than four units, in the zoning districts where these uses are allowed by SPECIAL PERMIT, subject to the standards and procedures set forth herein, in order that a range of housing options be available in the Town. It is also the intent to assure that the single-family character of the neighborhood will be maintained and that the two-family or MULTI-FAMILY building will enhance and not detract from the appearance and amenities in the surrounding neighborhood. [...]

17.4.2.4. At least one MULTI-FAMILY unit on a LOT shall be restricted for occupancy by a low- and moderate-income household and meet the requirements of the Local Initiative Program (LIP), 760 CMR 45.00, for inclusion on the Chapter 40B SUBSIDIZED HOUSING INVENTORY, as set forth in "Provision for Affordable Housing" in Section 17.4.11 of this Bylaw.

17.4.2.5. Use limitations. There shall be no other living units on the LOT upon which the two-family or MULTI-FAMILY dwelling is located. [...]

17.4.11. Provision for Affordable Housing.

17.4.11.1. A SPECIAL PERMIT to convert a single-family dwelling to a MULTI-FAMILY dwelling shall require the inclusion of dwelling units affordable to low- or moderate-income households.

17.4.11.2. At least one unit in a single-family dwelling converted to a MULTI-FAMILY FAMILY dwelling shall be restricted for occupancy by a low- or moderate-income household.

17.4.11.3. As a condition of the SPECIAL PERMIT, the BOARD OF APPEALS shall require the applicant to prepare a "Local Initiative Program Units Only" Application for the Board of Selectmen to submit to the Massachusetts Department of Housing and Community Development (DHCD) so that the affordable low- or moderate-income housing unit(s) will be added to the Chapter 40B SUBSIDIZED HOUSING INVENTORY. The affordable units shall be protected by a USE RESTRICTION or regulatory agreement which requires that the unit(s) remain affordable in perpetuity or for the maximum period allowed by law.

17.4.11.4. No building permit shall be issued until the Town of Merrimac receives written notice from DHCD that the affordable units meet the requirements for inclusion in the SUBSIDIZED HOUSING INVENTORY as low- or moderate-income housing.

17.4.11.5. The BUILDING COMMISSIONER shall not issue an occupancy permit without evidence that an affordable housing USE RESTRICTION or regulatory agreement approved by the Planning Board has been properly completed and recorded at the Registry of Deeds.

17.4.11.6. The conversion of a single-family to a two-family dwelling is exempt from the affordable housing provisions of this section.

What year was the inclusionary/incentive provision adopted?

2004

Have affordable units been developed through this zoning mechanism?

No Inclusionary provisions just passed in 2004.

Methuen

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

Yes Methuen Zoning Ordinance

Section XI-D - Special Permit Specific Regulations

7. Affordable Housing Density Bonuses

A. Purposes:

To encourage the inclusion of affordable housing in all new multi-family, attached dwelling, planned unit and mixed use developments.

B. Applicability:

An application for an Affordable Housing Density Bonus Special Permit shall be allowed for multi-family, attached dwelling, planned unit and mixed use developments. It is not the intention of this special permit section to provide Affordable Housing Density Bonuses to standard single-family subdivisions.

C. Procedural Requirements:

a. Application: Applicants for an Affordable Housing Density Bonus shall submit to the Community Development Board an original and eleven (11) copies of an application and a site plan (12 copies) as described in Section XI-C, 3(B). The application for an Affordable Housing Density Bonus shall be submitted in conjunction with applicable Multi-Family, Attached Dwelling, Planned Unit or Mixed-Use special permit application.

b. Procedures and Considerations: The procedures for obtaining an Affordable Housing Density Bonus Special Permit are specified in Section XI-E. In order to grant an Affordable Housing Density Bonus Special Permit the Community Development Board must find that all of the general requirements for a special permit as specified in Section XI-C have been fulfilled and that the specific requirements of Section XI-D, 7(D) have been fulfilled.

D. Requirements:

a. At least ten (10%) percent of the total dwelling units in a multi-family or attached dwelling development shall be designated as affordable housing. The total dwelling units in a development shall include all additional dwelling units that may be granted by the Community Development Board through the Affordable Housing Density Bonus Special Permit. For the purpose of this section, affordable housing shall be defined as housing that is affordable to households with incomes less than or equal to 120% of the median income of the Lawrence-Haverhill Standard Metropolitan Statistical Area (SMSA) as amended from time to time by the Regional Economist, Boston Office, U.S. Department of Housing and Urban Development in the "Income Limits for the Section 8 Program".

b. The following income classifications shall be used when describing different low and moderate income levels:

-very low income: below 50% SMSA median income

-low income: 50% to 80% SMSA median income

-moderate income: 80% to 120% SMSA median income

c. As of December, 1988, the income limits for a family of four for each income classification were as follows:

-very low income: below \$21,100

-low income: \$21,101 to \$33,750

-moderate income: \$33,751 to \$50,640

d. Affordable units shall be defined as those units which may be purchased or rented by households meeting the guidelines for maximum annual income as defined in Section XI-D, 7 (D), and whose expenditure for housing costs does not exceed 30% of their gross annual income in the previous calendar year. Housing costs shall be defined as follows: 1) for owners payments for principal and interest on a mortgage, real estate taxes, homeowners insurance, and condominium fees, if any, or 2) for renters rent including heat, if provided, but not utilities. However, any housing unit that conforms to the definition of low and moderate income housing as stated in 760 CMR Section 30.02 as may be amended.

e. The Community Development Board shall have the right to determine the number and maximum sale price of the affordable units that will be offered to each category of low and moderate income households.

f. The Community Development Board shall have the right to grant the following density bonuses on special permit residential developments that provide at least ten percent (10%) of the total number of units in the development as affordable housing as defined herein.

Percent

Special Permit Density Bonus

Multi-Family up to 100%

Attached Dwelling up to 100%
Planned Unit Development up to 100%
Mixed Use Development up to 100%

g. The special permit residential development shall comply with the maximum density requirements, exclusive of all density bonuses, of the zoning district in which the development will be located. The maximum gross density of dwelling units per gross acre of land inclusive of all density bonuses shall be as follows for the applicable zoning district:

It is not the intention of this special permit section to provide for the increase or doubling of the number of housing units permitted under the Maximum Allowable Density specified above.

h. The affordable housing units included in the special permit residential development that are offered for sale (condominiums) shall include resale controls that will ensure the continued afford ability of those units by low and moderate income households. This can be accomplished by limiting the future sale price of a unit through deed restrictions or any other devices as may be approved by the Community Development Board. The applicant shall submit as part of the application for an Affordable Housing Density Bonus Special Permit the resale controls for the affordable housing units.

i. The Community Development Board may require that in lieu of all or some of the affordable units being provided within the development, the applicant shall:

1. Make a cash payment to an Affordable Housing Fund to be used by the Town for the sole purpose of developing affordable housing. The amount of said payment shall be determined by the Community Development Board using accepted valuation methods and shall be at least the equivalent in value to the affordable units which would have been provided within the development.

2. Provide some or all of the affordable units on land other than the development tract in which a special permit is being sought only if the affordable units are newly created. The affordable units may be located in an existing structure provided their construction constitutes a net increase in the number of dwelling units in the structure.

3. Provide all or some of the required affordable housing through a combination of any or all of the methods in this Section.

j. If the Community Development Board allows the provision of some or all of the affordable housing on land other than the development tract, the Community Development Board shall first find that such alternative site will not create undue concentration of low and moderate income households and will avoid undue hardship to neighboring land and buildings.

What year was the inclusionary/incentive provision adopted?

Early 1990 Curt Bellavance, Director of Planning and Community Development, (10/26/04) does not know when the inclusionary zoning program was created, but believes it has been in place for 10 - 15 years.

Have affordable units been developed through this zoning mechanism?

No According to Curt Bellavance, Director of Planning and Community Development, (10/26/04) the inclusionary density bonus has only been used once. In that case, the developer chose to pay a fee to the town in lieu of building affordable units.

Middleborough

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

No

What year was the inclusionary/incentive provision adopted?

Have affordable units been developed through this zoning mechanism?

Middleton

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

No

What year was the inclusionary/incentive provision adopted?

Have affordable units been developed through this zoning mechanism?

Milford

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

Yes Town of Milford Zoning Bylaw (Amended 2003)

ARTICLE VI PLANNED RESIDENTIAL DEVELOPMENT

6.1 Planned Residential Development: Notwithstanding the provisions of Article II of this By-Law, the Planning Board may grant a Special Permit for tracts of land in Single-Family Residential (RB), Rural Residential C (RC), or Rural Residential D (RD) Districts to be utilized as a Planned Residential Development (PRD), subject to the requirements and conditions of this Article VI, thereby exempting such PRD Special Permits from the lot area and frontage requirements of Section 2.5 of this By-Law.

6.2 Purpose: This Article VI provides for the public interest by: Preserving open space in perpetuity; Promoting maximum protection of groundwater, watersheds, open space, and visual quality; Encouraging efficient use of land in harmony with its natural features; Encouraging efficient extension of utilities and services; and, Providing variety in residential development styles more consistent with town growth policies than traditional development styles.

6.3 Standards: The Planning Board may only grant a PRD Special Permit for applications that meet the provisions of this Article VI, and of Sections 1.10 and 1.15 of this By-Law.

6.4 Requirements

6.4.1 Minimum Tract Size: The size of the tract to be developed as a PRD shall be a minimum of 5 contiguous acres in the RB District, or 10 contiguous acres in the RC and RD Districts.

6.4.2 Dwelling Style: A maximum of four (4) dwelling units per structure shall be permitted in structures that, to the extent feasible, resemble single-family residences.

6.4.3 Density: The maximum number of dwelling units shall be determined by dividing 85% of the total area of the site by the minimum lot size of the zoning district in which the site is located. Said number of units shall be rounded to the nearest whole number.

6.4.3.1 Density Bonus: The maximum number of dwelling units as calculated in Section 6.4.3 of this Article VI may be exceeded provided the Planning Board determines that the proposed PRD includes the provision of substantial facilities that clearly provide an overriding public benefit. Substantial facilities that clearly provide an overriding public benefit are:

6.4.3.1.1 The provision of at least 25% of the total number of dwelling units as deed restricted in perpetuity for occupancy by two persons only, at least one of which is 55 years of age or older;

6.4.3.1.2 The provision of at least 25% of the total number of dwelling units that are deed restricted in perpetuity for the sale to persons who qualify as low- or moderate-income as determined by Massachusetts Department of Housing and Community Development; or,

6.4.3.1.3 On tracts of 100 acres or larger, the construction of substantial public recreation facilities (regulation athletic fields, regulation tennis courts, municipal parks with community center or public assembly facility, and golf courses) to be deeded upon completion to the Town. Any substantial public recreation facility shall include adequate off-street parking, public access, and restroom facilities as determined by the Planning Board. Substantial public recreation facilities shall be considered part of the required Common Open Space (COS).

6.4.3.2 The maximum density bonus under Sections 6.4.3.1.1 and 6.4.3.1.2 of this Article VI shall not exceed the addition of more than 50% of the number of dwelling units determined under Section 6.4.3 of this Article VI. The actual density bonus may vary from site to site depending upon the physical and environmental characteristics of the site in question.

6.4.3.3 The maximum density bonus under Section 6.4.3.1.3 of this Article VI shall not exceed the addition of more than:

6.4.3.3.1 25% of the number of dwelling units determined under Section 6.4.3 of this Article VI for the construction of regulation athletic fields consisting of a minimum of 10 contiguous acres.

6.4.3.3.2 25% of the number of dwelling units determined under Section 6.4.3 of this Article VI for the construction of at least six regulation tennis courts.

6.4.3.3.3 50% of the number of dwelling units determined under Section 6.4.3 of this Article VI for the construction of a municipal park consisting of a minimum of 10 contiguous acres with a community center building or public assembly building.

6.4.3.3.4 50% of the number of dwelling units determined under Section 6.4.3 of this Article VI for the construction of a public golf course.

The actual density bonus will vary from site to site as determined by the Planning Board depending upon the magnitude of the facility being provided and the physical and environmental characteristics of the site in question.

6.4.3.4 Notwithstanding the provisions of Sections 6.4.3.2 and 6.4.3.3 of this Article VI, in no case shall the maximum density bonus exceed the addition of more than 50% of the number of dwelling units determined under Section 6.4.3 of this Article VI.

6.4.4 Dimension Requirements: There shall be no minimum lot area, frontage, lot shape factor, or yard requirements within a PRD. However, no building shall be erected within 75' of an existing public street, or 30' from an internal public street (if any). Structures shall be at least 10' apart within the PRD.

6.4.4.1 Perimeter Buffer: Except for access to the PRD, there shall be a 100' wide Perimeter Buffer around the entire tract, within which no structure or interior roadway shall be constructed. The Planning Board may by a vote of at least four members, reduce the Perimeter Buffer if it is determined that lesser widths are appropriate given the size, shape, and environmental features of the site, and/or proximity to surrounding land uses. However, in no case shall the Planning Board reduce the Perimeter Buffer to less than 25' wide.

6.4.4.2 Landscape Buffer: Within the Perimeter Buffer, there shall be a 25' wide screen of densely planted vegetation or suitable alternative subject to Planning Board approval, to provide a continuous landscaped buffer that protects adjacent properties with a natural visual barrier. The Perimeter Buffer shall be considered part of the required Common Open Space (COS).

6.4.5 Sewer: Each unit shall be served by municipal sewerage

6.4.6 Design and Construction Requirements: All streets or principal ways within the PRD shall have a paved width of at least 24'. As determined applicable by the Planning Board, all other design and construction requirements of ways, utilities and drainage shall comply with the Subdivision Rules and Regulations. All streets, roads, driveways, parking areas, utilities and other PRD facilities shall be fully maintained, and operated by all the owners of the units.

6.4.7 Maximum Building Height: Structures shall not exceed 35' in height or 2½ story whichever is less.

6.4.8 Compatibility: The PRD shall be designed in harmony with the natural features of the site and shall preserve the topography, wetlands, watercourses, views and vistas, and shall provide access thereto. To the extent practicable, the PRD shall be designed to be compatible with adjacent existing developments.

6.4.9: Number of Bedrooms: Each dwelling unit shall contain no more than two bedrooms, except that deed restricted units under Section 6.4.3.1.2, or any bonus units granted under Section 6.4.3.1.3 of this Article VI, may contain any number of bedrooms. For purposes of this Article VI, any room that is not a kitchen, living room, dining room, bathroom, hallway, or stairway, shall be considered a bedroom.

6.5 Common Open Space: The PRD shall provide for at least 50% of the total lot area as Common Open Space (COS). The COS shall, as the primary design element, preserve and respect the natural features of the site including, but not limited to water bodies, watercourses, wetlands and flood plains, steep slopes, rock formations, woods, open meadows, and scenic vistas. Streets, roadways, or rights of way shall not be considered COS.

6.5.1 Each area of COS shall have at least a 40' wide access to a public or private street or internal access drive within the development.

6.5.2 All COS shall have a shape, dimension, character and location suitable to assure its use for conservation, agricultural, park, or recreation purposes.

6.5.3 Not less than 50% of the COS minimum requirement shall be uplands. COS upland is all land excluding vegetated wetland, the surface of any lake or pond, land in a Flood Hazard District and land with slopes greater than 15%.

6.5.4 Where the COS has been environmentally damaged prior to application, or prior to the completion of an approved PRD, as a result of soil removal, harvesting of trees or other natural features, refuse disposal or any other activity deemed inappropriate with the proposed uses of the COS, the Planning Board may require the developer to restore or improve the condition and appearance of the COS, and may require the posting of a bond or other appropriate form of performance guarantee to ensure such restoration or improvement.

6.6 Ownership of COS: All COS shall be owned by an entity established to own and manage the facilities and land held in common. Provisions shall be made so that the COS land or applicable portions thereof shall be readily accessible to the owners and occupants of the units of the PRD, or as warranted to the general public. The developer shall provide for the permanent preservation and maintenance of the COS within the PRD as follows:

6.6.1 The developer shall, with approval of the Planning Board, convey such COS to: A corporation or trust to be owned by all of the owners of units within the PRD; A non-profit organization having as its primary purpose the maintenance of the COS land; The Town of Milford; or any combination thereof. In instances where substantial public recreation facilities are being provided, such facilities shall be deeded to the Town.

6.6.2 A perpetual restriction as per Chapter 184, §31 of the Mass. General Laws, running to or enforceable by the Town, shall be recorded in respect to such COS. Such restriction shall provide that the COS shall be retained in perpetuity, and may only be used for: Conservation, Agriculture, Park, Recreation purposes or a combination thereof, except that easements for utilities including stormwater remediation are allowed.

6.6.3 Any owner of land set aside as COS shall be under the legal duty enforceable severally by the Town and any owner of a unit within the PRD to so limit the use of land and not permit the erection of any building or structure other than those devoted to approved COS uses, and structures necessary for the storage of equipment related to the maintenance of such uses.

6.7 Maintenance of COS: In order to insure that the corporation, non-profit organization, trust, or nonprofit corporation will properly maintain the COS and other common property in the PRD, an instrument shall be recorded at the Worcester District Registry of Deeds which shall at a minimum provide:

6.7.1 A legal description of the COS.

6.7.2 A statement of the purpose of which the COS is intended to be used and the restrictions on its use and alienation.

6.7.3 The type and name of the corporation, nonprofit organization, or trust which will own, manage and maintain the COS.

6.7.4 The ownership or beneficial interest in the corporation, nonprofit organization or trust of each owner of a dwelling in the PRD and a provision that such ownership or beneficial interest shall be appurtenant to the dwelling to which it relates and may not be conveyed or encumbered separately there from.

6.8 Procedure

6.8.1 Pre-Application Process: Applicants are strongly encouraged to confer with the Town Planner and Town Engineer prior to preparing submittal materials for PRD Special Permit application. The purpose of the pre-application conference(s) is to minimize unnecessary engineering and design costs for the applicant, and to assure the Town that appropriate design principles are being employed in the layout of the proposed PRD application.

6.8.2 Application: Any person seeking a Special Permit for PRD shall file the appropriate fee along with ten copies of an application, in writing with the Planning Board, and a copy with the Town Clerk, which application shall contain the following information:

6.8.2.1 A PRD Site Plan meeting the requirements of Section 1.15.2.1 of this By-Law and including the following information:

6.8.2.1.1 The soil associations as delineated by the U.S. Soil Conservation Service;

6.8.2.1.2 The limit of each construction phase and a tabular summary of the total area of the tract.

6.8.2.1.3 The location, size and percent of COS.

6.8.2.1.4 The number, type and gross floor area of the residential buildings, including the number of bedrooms.

6.8.2.1.5 The building coverage and coverage of all impervious surfaces.

6.8.2.2 Architectural Plans and Elevations (at a scale of not less than 1/8" = 1') showing the elevation of the proposed buildings, noting their height and the layout of each floor.

6.8.2.3 Copies of all instruments to be recorded with the PRD Special Permit including the proposed deed(s) for the COS, the articles of any corporation or trust to be established for the ownership of the COS and the perpetual restriction to be imposed on the COS.

6.8.2.4 In instances where the PDR includes a Definitive Plan, the Special Permit and Definitive Plan required public hearings shall be conducted concurrently.

6.9 Decision of the Planning Board

6.9.1 The Planning Board shall not issue a Special Permit unless it finds that:

6.9.1.1 The PRD meets each of the conditions of Section 1.10.1 (a. through d.) of this By-Law.

6.9.1.2 The PRD meets each of the conditions of Section 1.15.6.2 (a. through g.) of this By-Law.

6.9.1.3 The PRD Site Plan complies with Sections 6.1 through 6.8 of this Article VI.

6.9.2 The Planning Board may require such changes in the proposed development plans and may impose such additional conditions, limitations and safeguards as it may deem appropriate to ensure compliance with all of the terms of this By-Law, including the posting of a bond or other appropriate form of performance guarantee.

6.10 Occupancy Permits: Occupancy Permits shall not be issued until the Planning Board has notified the Building Commissioner in writing that the roads, utilities and drainage have been completed in accordance with the terms and conditions of the PRD Special Permit.

6.11 Changes: Any substantial change in the approved PRD Special Permit shall require a new application, and may only be approved after additional notice and hearing as provided for in this By-Law. A substantial change shall be any of the following:

6.11.1 An increase in the number of dwelling units;

6.11.2 A decrease in the COS acreage;

6.11.3 A significant change in the shape of the COS;

6.11.4 A change in the use or ownership of the COS;

6.11.5 A significant change in the lot layout, if applicable;

6.11.6 Any change that adversely affects natural features and open space preservation;

6.11.7 Significant changes to the stormwater management facilities.

From 2003 Milford Comprehensive Plan:

"8.4 Focus on Affordable Housing Milford should take a proactive stance in its efforts to achieve affordable housing. While PRD's provide opportunities to include affordable units in exchange for a density bonus, these will not bring permanently designated housing units in Milford to the 10% level if conventional residential development continues at its current pace. This plan recommends the adoption of four major policies that will increase the amount of affordable housing in appropriate zoning districts and take advantage of the existing housing stock."

What year was the inclusionary/incentive provision adopted?

2002 From Milford Comprehensive Plan, 2003, Chapter Five:

"In 1985, Milford amended the zoning by-law to include Planned Residential Developments (PRD) by special permit in zones RB and RC. The purpose of this incentive zoning provision is to preserve open space in perpetuity; promote maximum protection of water resources; encourage efficient growth patterns, especially in terms of extending utilities and services; and to promote a greater variety of housing styles that are consistent with the Town's growth policies. The incentives were added in 2002 and allow up to 50 percent density bonuses to be achieved if the developer provides additional public benefit such as dedicating 25 percent of the units to affordable or elderly housing. PRD allows up to four attached units, making it the only type of new residential construction that may be greater than 2 units."

Survey received from Milford on 5/3/05, completed by Town Planner Larry Dunkin.

What year was the inclusionary/incentive provision adopted?

"2002"

Have affordable units been developed through this zoning mechanism?

No Survey received from Milford on 5/3/05, completed by Town Planner Larry Dunkin.

Have affordable units been developed through this zoning mechanism?

"No"

Millbury

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

No

What year was the inclusionary/incentive provision adopted?

Have affordable units been developed through this zoning mechanism?

Millis

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

No From ordinance.com:

LOW AND MODERATE INCOME HOUSING : A residential structure of structures constructed and financed for the purpose of providing ownership or rental living space for persons who qualify under Town of Millis Housing Authority and State of Massachusetts eligibility requirements as low and moderate income households.

What year was the inclusionary/incentive provision adopted?

Have affordable units been developed through this zoning mechanism?

Millville

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

No

What year was the inclusionary/incentive provision adopted?

Have affordable units been developed through this zoning mechanism?

Milton

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

No

What year was the inclusionary/incentive provision adopted?

Have affordable units been developed through this zoning mechanism?

Nahant

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

No

What year was the inclusionary/incentive provision adopted?

Have affordable units been developed through this zoning mechanism?

Natick

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

Yes Zoning Bylaw Town of Natick, Section III-A.6 (from Natick website as of August 19, 2004)

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III-A.6 AFFORDABLE HOUSING

The following procedure is available in order to carry out the purposes of the inclusionary housing option program as described in Section 108 of these bylaws.

A- INCLUSIONARY HOUSING OPTION PROGRAM (IHOP)

The provisions of this section shall apply to all developments of parcels creating ten (10) or more new residential dwelling units. Tracts of land may be developed under the provisions of the existing underlying zoning, or an applicant who owns the parcel, or who has the right to develop it, may elect to proceed under the bonus provisions described hereinafter.

1- Applicants who meet the foregoing requirements may apply to the Planning Board for a special permit that will permit them to receive additional units and relaxation of frontage requirements in exchange for the provision of affordable housing units. The Planning Board shall act as an SPGA and any plan shall meet the requirements of the Site Plan Review provisions of this Bylaw. If a subdivision is involved a definitive subdivision plan shall be submitted to the Planning Board in addition to the submission required under the Site Plan Review procedures. The Natick Housing Partnership or any successor organization having similar interests shall be included in the agencies receiving the distribution of copies of plans for comment.

2- The number of additional dwelling units permitted under the IHOP procedure may not exceed 20% of that otherwise permitted under the underlying zoning, as demonstrated by a plan submitted to the Planning Board. In determining the size of the bonus to be granted the Planning Board may consider a number of factors, including the cost of the land, the cost of development including the cost of construction of the units and infrastructure, and the proposed market price of the units to be built. In addition to any other waiver permitted under the subdivision control law and the Rules and Regulations of the Planning Board, requirements for area and/or frontage may be reduced as follows: area may be reduced up to 15% of the minimum intensity requirements of the underlying zone; frontage may be reduced up to 20% of the minimum required in the underlying zone.

3- Provided that additional units are granted by the Planning Board under the foregoing provision then affordable housing units shall be provided in any one of the following alternatives, subject to approval of the Planning Board:

A) By Donation to the Natick Housing

AuthorityA minimum of 5%*

III-11

B) By Sale to the Natick Housing

AuthorityA minimum of 10%*

C) By sale directly to low or moderate income

householdsA minimum of 10%

D) By cash payment to be used for low or moderate income family housing, or other affordable housing units **

Notes: * = % of total units in development, rounded up to the next whole number

** = Amount is determined by professional valuation

methods as the equivalent value to the units which otherwise would have been provided within the development as affordable units.

a) Units to be donated to the Natick Housing Authority are subject to the approval of the Natick Housing Authority, and of the applicable federal or state funding agency.

b) Units set aside for sale to the Natick Housing Authority shall be offered at prices which do not exceed the greater of:

(i) the construction costs of the particular units, or (ii) the current acquisition cost limits for the particular units under applicable state or federal financing programs. If the Natick Housing Authority is unable to purchase the set-aside units at the time of completion, the units shall be offered for sale to low and moderate income households.

c) Units set aside for sale to low/moderate income households shall be offered only to those households which qualify as "low" or "moderate" in accordance with the definitions set forth in this bylaw.

4- Each affordable unit created in accordance with this section shall have limitations governing its resale. Such limitations shall have as their purpose to preserve the long-term affordability of the unit and to ensure its continued availability to low or moderate income households. The limitations may include a formula to determine the maximum selling price which will take into account the lowered mortgage rates available to the owner at time of purchase, any appreciation to date of proposed sale, and any regulations of the agency which may have participated in providing financing for the original purchase. Additionally, such limitations may provide that in the event of a market rate sale a sum of money shall be returned to a designated agency in the Town that reflects the differential in mortgage rates enjoyed by the owner as a result of less than market rate financing. The resale controls shall be established through a deed restriction, and shall be in force for the maximum period that is permitted under the Massachusetts General Laws. Such restrictions may also provide that the Natick Housing Authority shall have a prior right of purchase at the price determined according to the restriction for a period of thirty (30) days

after the unit is placed on sale. Notice of any proposed sale shall be given to the Planning Board and to the Natick Housing Authority. (Art. 35, 1992 Fall A.T.M.) III-12

5- Affordable Units to be offered for sale under the IHOP provisions shall, for a period of six (6) months from the date of first offering for sale, be offered on a 50%-50% basis to residents of the Town of Natick and to persons employed within the Town of Natick. Natick residency status shall be given only to one who had been a resident for at least one (1) year within the previous five (5) years. Such preference shall not be given if prohibited by, or to the extent prohibited by, a federal or state agency under a financing or other subsidy program. Persons who are both residents and work in the Town of Natick shall be given only one preference.

6- In addition to any requirements under Site Plan Review, the Special Permit, or Subdivision approval, an applicant must submit a development plan acceptable to the Planning Board plan indicating how the parcel could be developed under the underlying zoning (i.e. a baseline plan). Any bonus granted shall be calculated from the baseline plan. The development plan showing the bonus units shall also indicate the proposed affordable units, which must be dispersed throughout the parcel to ensure a mix of market-rate and affordable housing. Affordable units shall have an exterior appearance that is compatible with, and to the extent that is possible, indistinguishable from the market rate units in the development. Affordable units shall contain at least two (2) or more bedrooms and shall be suitable as to design for family occupancy. The owners of affordable units shall have all of the rights and privileges accorded to market rate owners regarding any amenities within the development. (Art. 10, 1991 Fall A.T.M.)

From ordinance.com:

LOW INCOME : "Low Income" shall mean having a total household or family income less than or equal to eighty (80%) percent of the median income for the Greater Boston Primary Metropolitan Statistical Area, as set forth in regulations promulgated from time to time by the U.S. Department of Housing and Urban Development, pursuant to 42 USC 1437, et. seq., and calculated pursuant to said regulation; or a household in a similar income group which is eligible for housing assistance under a state or federal subsidy program. (Art. 10, 1991 Fall A.T.M.) (Art. 7, S.T.M. #1, 2/3/93)

MODERATE INCOME : "Moderate Income" shall mean having a total household or family income less than or equal to one hundred twenty (120/a) percent, but more than eighty (80%) percent, of the median income for the Greater Boston Primary Metropolitan Statistical Area, as set forth in regulations promulgated from time to time by the U.S. Department of Housing and Urban

Development pursuant to 42 U.S.C. 1437 et. seq., and calculated pursuant to said regulations; or a household in a similar income group which is eligible for housing assistance under a state or federal subsidy program. (Art. 10, 1991 Fall A.T.M.) (Art. 7; S.T.M: #1, 213193)

Also from ordinance.com:

III-A.6 AFFORDABLE HOUSING

A- INCLUSIONARY HOUSING OPTION PROGRAM (IHOP)

(above)

B- HOUSING OVERLAY OPTION PLAN - (HOOP)

1. PURPOSE The purpose of this Housing Overlay Option Plan is to create overlay districts in selected areas of the Town in order to enhance the public welfare by increasing the production of dwelling units affordable to persons and households of low and moderate income in a manner consistent with the character of the downtown area. In order to encourage utilization of the Town's remaining developable land in a manner consistent with local housing policies and needs, new housing developments in the HOOP Districts are required to contain a proportion of dwelling units affordable to persons or households of low and moderate income. This requirement will reduce sprawl by developing land that is underutilized and is located in Natick Center where public transportation is available. Development under the provisions of this bylaw, or under MGL Chapter 40B, Sections 20-23 is encouraged to take place in the HOOP Districts. It is desirable in these overlay districts to provide for: pedestrian areas within and between housing complexes; public parks; open space and additional open space resulting from placing parking under buildings or underground.

2. APPLICABILITY The provisions of this section may be utilized on any land located within the HOOP - I and HOOP - II districts, subject to the requirements and standards set forth in this Section.

All regulations of the underlying zoning districts shall apply within the HOOP - I and HOOP - II Districts, except to the extent that they are specifically modified or supplemented by regulations set forth in this Section. Where requirements and standards within the HOOP - I and HOOP - II Districts, as set forth in this Section, differ from or conflict with applicable requirements and standards set forth elsewhere in this By-Law, the requirements and standards established for the HOOP - I and HOOP II Districts shall take precedence.

3. DENSITY

a) The maximum number of dwelling units allowed in the Housing Overlay Option Plan - I (HOOP - I) District shall equal the net land area which shall mean the gross area of the parcel divided by 2,500 square feet, rounded to the nearest whole number. At least fifteen percent (15%) of this total number of dwelling units shall be Affordable Housing Units as defined in Section 200 herein (see also the definition of Subsidized Housing herein),

b) The maximum number of dwelling units allowed in the Housing Overlay Option Plan - II (HOOP-II) District shall equal the net land area which shall mean the gross area of the parcel divided by 3,500 square feet, rounded to the nearest whole number. At least fifteen percent (15%) of this total number of dwelling units shall be Affordable Housing Units as defined in Section 200 herein (see also the definition of Subsidized Housing herein).

c) The number of dwelling units allowed in the HOOP - I and HOOP - II Districts may be limited by the ability to provide adequate off-street parking, in accordance with the requirements of Section V-D of these By-Laws.

4. BONUSES, USES

a) Where the SPGA, in its discretion, finds that, in addition to the project's meeting the requirements under site plan review under § VI-DD of this bylaw, the following criteria are met for parcels in the HOOP - I District, then the maximum number of dwelling units allowed shall equal the gross area of the parcel divided by 1,500 square feet, rounded to the nearest whole number, and where the SPGA, in its discretion, finds that, in addition to the project's meeting the requirements under site plan review under § VI-DD of this bylaw, the following criteria are met for parcels in the HOOP - II District, then the maximum number of dwelling units allowed shall equal the gross area of the parcel divided by 3,000 square feet, rounded to the nearest whole number.

b) The criteria to be met are:

1) The Site Plan offers the Town a landmark project with area-wide benefits;

2) The Site plan demonstrates an overall planning concept and design of individual structures and parcels that is consistent and harmonious with the existing town center streetscape and character and which strengthens the town center's integral and vital role in the greater community;

3) The Site Plan includes a professional landscape plan with substantial planting;

4) The Site Plan includes a lighting plan that lights the project in a pedestrian-friendly, aesthetically pleasing manner;

5) The Site Plan includes other elements found beneficial by the Design Review Board.

5. INTENSITY REGULATIONS FOR THE HOOP DISTRICTS

6. OPEN SPACE The open space requirement may be met with the provision of publicly accessible parks and walking trails on or off-site and located within the HOOP - I or HOOP - II district. Each square foot of land provided as a public park, not to include wetlands, shall count as 1.5 square feet of required open space.

7. MODIFICATIONS AND WAIVERS The SPGA may modify and/or waive strict compliance with one or more of the regulations in any of the HOOP districts provided that it makes a specific finding, in writing, that such waiver and/or modification will not create conditions which are substantially more detrimental to the existing site and the neighborhood in which the site is located, than if the waiver and/or modification were not granted, and further that such waiver and/or modification is necessary in order to encourage the creation of Affordable Housing units.

8. AFFORDABILITY

a) Affordability shall be determined in accordance with the definition of Subsidized Housing found in Section 200. The Planning Board shall adopt rules and regulations regarding the sale or rental of all Affordable Housing units. Unless otherwise regulated by a Federal or State agency under a financing or other subsidy program, at least fifty percent (50%) of the Affordable Housing units shall be initially offered to residents and/or employees of the Town of Natick. Residency and employment in Natick shall be established through Town Clerk certification.

b) All Affordable Housing units shall be maintained as such in perpetuity, or for as long as legally permissible, by the use of appropriate restrictions in deeds, lease provisions or other mechanisms as permitted under the Massachusetts General Laws and as approved by the SPGA.

9. DESIGN CRITERIA

The Applicant shall submit plans for all buildings, landscaping, and structures to the Design Review Board, which shall submit a report to the Special Permit Granting Authority for consideration during its special permit hearing: The Design Review Board report shall include its determination regarding the extent to which the proposed development meets any or all of the criteria set forth in subparagraph 4.b) above, and whether the project shown on the Site Plan is designed, located and constructed to afford the following:

a. Compatibility of architectural styles, scales, building materials and colors within the development;

b. Variations in facade, roof lines and interior layouts of dwelling units, including the design of units that are handicapped accessible;

c. Harmonious relationship of buildings and structures to each other and their environs with adequate light, air, circulation, privacy and separation; and

d. The capability for constant surveillance, orientation and recognition.

**Webmasters Note: The previous subsection, B., has been added as per an update approved at a town meeting held on 4/13/04.

Also on ordinance.com:

III-5. F COMPREHENSIVE CLUSTER DEVELOPMENT OPTION

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10. AFFORDABILITY

It is mandatory that a percentage of dwelling units in a CCD be sold, rented, or leased at prices and rates that are affordable to low- and moderate-income individuals, as more specifically set forth in the following:

a. Affordable Housing shall be determined in accordance with the definition of Subsidized Housing found in Section 200. All Affordable Housing units that are built shall be provided for sale through the Natick Housing Corporation or any similar organization, as determined by the Planning Board.

b. Basic Affordability Component - At least 10% of the units in the CCD, to the nearest whole number, shall be Affordable Housing units. None of the Affordable Housing units shall be age-qualified housing units.

c. Affordability Standards - Subject to Planning Board approval, an applicant for a CCD special permit may utilize any available State or Federal assistance program or shall meet the Affordable Housing unit requirements by utilizing income and asset standards, and by establishing rents, leases, sales prices, entry fees, condominium fees, and other costs for individuals that are generally consistent with available Affordable Housing assistance programs.

d. Affordability Restrictions - affordable units shall be maintained in perpetuity. Each affordable unit shall be rented or sold to its initial and all subsequent buyers or tenants subject to deed riders, restrictive covenants, contractual agreements, or other mechanisms restricting the use and occupancy, rent levels, sales prices, resale prices, and other cost factors to assure their long term affordability. These restrictions shall be in force for such maximum time as may be permitted under applicable state law governing such restrictions. They shall be enforceable and renewable by the Town of Natick through standard procedures provided by applicable law.

i. The Planning Board may require that the restrictions for affordable units contain a right of first refusal to the Town of Natick or its designee at the restricted resale value, and that the owner provides notice of such right of first refusal to the Planning Board or its designee prior to selling or reselling the affordable unit with such reasonable time as the Planning Board may determine in its discretion for the town or its designee is necessary to exercise the right of first refusal.

ii. Nothing in this Section shall be construed to cause eviction of an owner or tenant of an Affordable Housing unit due to loss of his/her income eligibility status during the time of ownership or tenancy. Rather, the restrictions governing an Affordable Housing unit shall be enforced upon resale, re rental, or re-lease of the Affordable Housing unit. The mechanisms and remedies to enforce the restrictions governing an Affordable Housing unit upon resale, re-rental, or re-lease shall be set forth in its deed restrictions.

iii. All contractual agreements with the Town of Natick and other documents necessary to insure the long term affordability of an affordable unit shall be executed prior to the issuance of any building permit-under this option.

e. The exterior of the affordable units shall be compatible with, and as much as possible indistinguishable from, market-rate dwelling units in the CCD development.

f. Local Preference - Unless otherwise regulated by an applicable Federal or State agency under a financing or other subsidy program, at least fifty percent (50%) of the affordable units shall be initially offered to residents and employees of the Town of Natick.

i. Residency and employment in Natick shall be established through Town Clerk certification based on the Town Census, voter registration, or other acceptable evidence approved by the Town Clerk.

ii. Purchaser/tenant selection - Procedures for the selection of purchasers and/or tenants shall be subject to regulations adopted by the Planning Board .

iii. These restrictions shall be in force for one hundred and twenty (120) days from the date of the first offering of sale or rental of a particular affordable unit.

What year was the inclusionary/incentive provision adopted?

1991 Sarkis Sarkisian, Community Development Director, said (9/9/04) that Natick established inclusionary zoning in 1991.

Have affordable units been developed through this zoning mechanism?

No Sarkis Sarkisian, Community Development Director, said that Natick received money from developers that helped 15 families put deposits on homes, although those homes are not deed restricted and therefore do not count as "affordable" for government calculations. (9/9/04)

Needham

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

No

What year was the inclusionary/incentive provision adopted?

Have affordable units been developed through this zoning mechanism?

Newbury

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

Yes Town of Newbury Zoning Bylaw (Adopted 1959, Amended 1999)

ARTICLE XIA

Open Space Residential Development Bylaw

§ 97-47.12. Increases in permissible density.

The Planning Board may award a density bonus to increase the number of dwelling units beyond the Basic Maximum Number. The density bonus for the OSRD shall not, in the aggregate, exceed fifty percent (50%) of the Basic Maximum Number. Computations shall be rounded to the lowest number. A density bonus may be awarded in the following circumstances:

A. For each additional ten percent (10%) of the site (over and above the required 50%) set aside as open space, a bonus of five percent (5%) of the Basic Maximum Number may be awarded.

B. For every one (1) dwelling unit restricted to occupancy for a period in perpetuity by persons or families who qualify as low or moderate income, as those terms are defined for the area by the Commonwealth's Department of Housing and Community Development, one (1) dwelling unit may be added as a density bonus. [Amended 6-22-2004 STM, Art. 7]

C. For every historic structure preserved and subject to a historic preservation restriction, one (1) dwelling unit may be added as a density bonus.

What year was the inclusionary/incentive provision adopted?

2001 Open Space Residential Development Bylaw

[Added 4-24-2001 ATM, Art. 27; amended 4-22-2003 ATM, Art. 6]

(The density bonus could be part of a later amendment. This was not confirmed with the town.)

Have affordable units been developed through this zoning mechanism?

No Survey received on 5/22/05 from Newbury Town Planner Judy Tymon:

Have affordable units been developed through this zoning mechanism?

"No"

Newburyport

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

Yes City of Newburyport Zoning Ordinance, Amended 2004

[SECTION] XVI. BONUS PROVISIONS FOR MULTIFAMILY DEVELOPMENTS

XVI-A Purpose.

The purpose of this section is to allow increases in allowable density for multifamily developments which provide low or moderate income for sale housing and/or market rate rental apartments as outlined in the sections which follow.

XVI-B Definitions.

1. Affordable housing. Affordable housing includes housing which is subsidized by state or federal government grant programs and housing which is oriented to moderate and middle-income families such as that regulated by the Massachusetts Housing Opportunity Program. Such housing is made affordable through direct grants, interest rates and sales prices below market rates, and other types of subsidies by the public or private sector.
2. Resale controls. Resale controls are those controls which are imposed upon housing units dedicated as affordable to ensure the continued affordability of those units to eligible home buyers for a certain amount of time. Such resale controls shall be incorporated as deed restrictions.

XVI-C Types of eligible housing and bonus allowable.

1. Affordable low to moderate for sale housing units. If a multi-family development project proposes twenty-five (25) percent of its housing units to be dedicated as low income housing as outlined below, the number of allowable units and the number of units per structure as defined in section VI-A of this ordinance may increase by fifty (50) percent.
2. Market rate rental units. If a multi-family development project proposes twenty-five (25) percent of its total housing units to be developed as market rate rental housing as outlined below, the number of allowable units and the number of units per structure may be increased by fifty (50) percent.

XVI-D Requirements for approval of bonus density.

1. Affordable low to moderate housing units. [The following requirements are applicable to affordable low to moderate housing units:]

- a. Price. The permissible sales price limitations for the designated affordable units shall be as defined and published and as revised by the Massachusetts Department of Community Affairs or Massachusetts Housing Finance Agency so that the units are affordable for a low or moderate income households.
- b. Qualified low and moderate household. Persons or families shall be considered qualified purchasers when they meet the income qualifications for low and moderate households as published by the State of Massachusetts Executive Office of Communities and Development and Massachusetts Housing Finance Agency.
- c. Re-sale conditions and terms. Deed restrictions governing the re-sale value shall be placed on the affordable units. Said restrictions shall impose a resale value consisting of a percentage of appraised value on the unit at the time of initial sale. Said percentage of appraised value shall, through the deed restriction, be imposed upon said property for a period of forty (40) [years] from the date of the initial sale of the unit.
- 2. Market rate rental housing. [The following requirements are applicable to market rate rental housing:]
 - a. Conversion from rental to for-sale units. Deed restrictions prohibiting conversion from rental to for-sale units shall be imposed for a period of forty (40) years on any units designated as market rate rental units.

V-C.1.G

7. Affordable units in the development shall be consistent with the definition of low and moderate income housing under M.G.L.A. c. 40B § 20 (as amended) with the exception that units may not require a subsidy or approval of the department of housing and community development. Note, all affordable unit(s)/lot(s) are exempt from the total units/lots permitted annually in this ordinance.

11. In meeting the objectives of the master plan, the planning board may grant a special permit for a density bonus of one (1) lot or residential dwelling unit provided the overall tract of land in the subdivision is greater than five (5) acres in area outside the urban area or greater than one (1) acre within the urban area and the bonus lot shall be donated and deeded to a nonprofit (501c.3) organization for the exclusive purpose of at least one of the following:

- Permanent open space protection for existing, or access to, significant historic resources;
- Relocation, restoration and sale of a historic structure as defined in building demolition ordinance, city ordinances for use as a single- or two-family dwelling unit(s);
- Construction of a single- or two-family permanent affordable housing unit(s). 7

In determining the appropriate use, size and location of the bonus lot, the planning board shall review the specific applicant, neighborhood input at the public hearing as well as input from the Newburyport Historic Commission. The planning board may waive the frontage requirement to sixty (60) feet for the bonus lot. Prior to final approval, the planning board shall also require a deed document to the bonus lot with all necessary restrictions, covenants and/or conditions of conveyance.

SECTION XXII. FEDERAL STREET OVERLAY DISTRICT (FSOD)

[XXII-J]E Special permit procedure and criteria.

Following the review procedures listed in section X-H.8., an applicant or property owner may request a special permit from the planning board provided the project meets the following criteria. The planning board may issue a special permit for the project provided the requirements of section X-H.5. and the following criteria are met:

- 1. At least 10%, not less than two (2) units, of the proposed dwelling units shall be affordable as defined under M.G.L.A. c. 40B § 20 (including amendments);

What year was the inclusionary/incentive provision adopted?

2002 Researcher found no specific date for the creation of inclusionary zoning. Gary Calderwood, Building Inspector, was not sure of the specific date but believes the zoning has been in place for about ten years.

Survey received from Newburyport on 5/4/05, completed by Planning Director Nicholas Cracknell.

What year was the inclusionary/incentive provision adopted?

"2002"

Have affordable units been developed through this zoning mechanism?

Yes According to Gary Calderwood, Building Inspector, the town of Newburyport has a strong Housing Rehabilitation program that creates about 20-30 affordable units per year. (11/5/04)

Survey received from Newburyport on 5/4/05, completed by Planning Director Nicholas Cracknell.

Have affordable units been developed through this zoning mechanism?

"Yes"

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

Yes From ordinance.com, definitions:

AFFORDABLE RENTAL HOUSING UNIT A dwelling unit whose monthly rent is not greater than 30% of 80% of the median family income for Metropolitan Boston divided by 12, or as otherwise defined by the Newton Housing Authority.

ARTICLE IV. ZONING ADMINISTRATION

Sec. 30-24. Special Permits.

(f). Inclusionary Zoning

Purposes: The purposes of this section 30-24(f) are to promote the public health, safety, and welfare by encouraging diversity of housing opportunities in the City; to provide for a full range of housing choices throughout the City for households of all incomes, ages, and sizes in order to meet the City's goal of preserving its character and diversity; to mitigate the impact of residential development on the availability and cost of housing, especially housing affordable to low and moderate income households; to increase the production of affordable housing units to meet existing and anticipated housing needs within the City; to provide a mechanism by which residential development can contribute directly to increasing the supply of affordable housing in exchange for a greater density of development than that which is permitted as a matter of right; and to establish requirements, standards, and guidelines for the use of such contributions generated from the application of inclusionary housing provisions.

(f)(1) Definitions.

a) ELIGIBLE HOUSEHOLD shall mean: for rental housing, any household whose total income does not exceed 80 percent of the applicable median income for households in the Boston Metropolitan Statistical Area, adjusted for household size; and for for-sale housing, any household whose total income does not exceed 120 percent of the applicable median income for households in the Boston Metropolitan Statistical Area, adjusted for household size.

b) INCLUSIONARY UNIT(S) shall mean any finished dwelling unit required to be for sale or rental under section 30-24(f) of the zoning ordinances.

(i) For Inclusionary Units that are rented to Eligible Households, the monthly rent payment, including utilities and parking, shall not exceed 30 percent of the monthly income of an Eligible Household, assuming 1.5 persons per bedroom, except in the event of an Eligible Household with a Section 8 voucher in which case the rent and income limits established by the Newton Housing Authority, with the approval of the U.S. Department of Housing and Urban Development, shall apply.

(ii) For Inclusionary Units that are sold to Eligible Households, the monthly housing payment, including mortgage principal and interest, private mortgage insurance, property taxes, condominium and/or homeowner's association fees, insurance, and parking, shall not exceed 33 percent of the monthly income of an Eligible Household, assuming 1.5 persons per bedroom.

(iii) Where less than three Inclusionary Units are provided in a development under section 30-24(f)(3), Inclusionary Units required to be offered for sale shall be provided to Eligible Households with median incomes of not more than 80 percent of the median income for the Boston Metropolitan Statistical Area, adjusted for household size.

(iv) Where three or more Inclusionary Units are provided in a development under section 30-24(f)(3), two thirds of the Inclusionary Units required to be offered for sale shall be provided to Eligible Households with median incomes of not more than 80 percent of the median income for the Boston Metropolitan Statistical Area, adjusted for household size. One third of the Inclusionary Units required to be offered for sale shall be provided to Eligible Households with median incomes of not more than 120 percent of the median income for the Boston Metropolitan Statistical Area, adjusted for household size.

(v) Where two or more Inclusionary Units are provided in a development under section 30-24(f)(3), Inclusionary Units required to be offered for rental shall be provided to Eligible Households such that the aggregate median income of Eligible Households in the development does not exceed 65 percent of the median income for the Boston Metropolitan Statistical Area, adjusted for household size. Where one Inclusionary Unit is provided in a development under section 30-24(f)(3), the Inclusionary Unit required to be offered for rental shall be provided to Eligible Households with a median income of not more than 80 percent of the median income for the Boston Metropolitan Statistical Area, adjusted for household size.

c) APPLICANT shall mean: that individual, organization, or company that applies to the board of aldermen for a special permit that is subject to the requirements of section 30-24(f) of the zoning ordinances.

(f)(2) Scope. Where a special permit is required under these Ordinances for residential development or for a business or mixed-use development that includes residential development beyond that allowable as of right or where the development is proposed to include or may include new or additional dwelling units totaling more than two households whether by new construction, rehabilitation, conversion of a building or structure, or an open space preservation development, the development shall be subject to the inclusionary zoning provisions of this section. This inclusionary zoning section does not apply to accessory units under section

30-8 (d) and 30-9(h) or to a conventional subdivision of land under G.L. c.41, §§ 81K et seq. other than an open space preservation development under section 30-15(k).

(f)(3) Inclusionary Units. Where a special permit is required for development as described in section 30-24(f)(2), 15 percent of the units proposed for the development shall be Inclusionary Units and shall be reserved for sale or rental to Eligible Households. In the case of an existing residential property subject to determination by the Newton Historical Commission under section 22-44, the inclusionary requirement shall be 15 percent of net new units to be created on the property. For purposes of calculating the number of Inclusionary Units required in a proposed development, any fractional unit of 0.5 or greater shall be deemed to constitute a whole unit. At the discretion of the Applicant, a development may include more than 15 percent of its units as Inclusionary Units.

(f)(4) Cash Payment. Where the total number of dwelling units proposed in the development will not exceed six units, the Applicant may make a cash payment equal to 3 percent of the sales price at closing of each unit as verified by the planning and development department or if rental housing, the cash payment shall be equal to 3 percent of the estimated, assessed value of each unit as determined by the city assessor, in lieu of Inclusionary Units as provided in section 30-24 (f)(3). Certificates of Occupancy for the property shall not be issued until the cash payment has been made as verified by the planning and development department. This payment shall be made to an inclusionary housing development fund established by the board of aldermen. Proceeds from the fund shall be distributed equally to the Newton Housing Authority and the planning and development department and shall be used exclusively for construction, purchase, or rehabilitation of housing for Eligible Households. The comptroller shall annually review payments to the fund and use of the proceeds and shall certify to the board of aldermen that proceeds have been used for the purposes stated herein.

(f)(5) Off-Site Development. Where an Applicant has entered into a development agreement with a non-profit housing development organization, Inclusionary Units otherwise required to be constructed on site and within the development may be constructed off-site, provided that special permits are granted contemporaneously for both developments. The Applicant and the non-profit housing development organization must submit a development plan for off-site development for review and comment by the planning and development department prior to its submission to the board of aldermen. The plan must include at a minimum, demonstration of site control, the necessary financing in place to complete the off-site development, and construction specifications. The board of aldermen, in their consideration of the special permit for the off-site development, shall require in writing that the completion of the Inclusionary Units will occur no later than the completion of the Market Rate Units. If this does not occur, then the Applicant shall not receive certificates of occupancy for the Market Rate Units until such condition has been satisfied, as certified by the planning and development department and inspectional services.

(f)(6) Design and Construction. In all cases, Inclusionary Units shall be fully built out and finished dwelling units. Inclusionary Units provided on site must be dispersed throughout the development and must be sited in no less desirable locations than the Market Rate Units and have exteriors that are indistinguishable in design and of equivalent materials to the exteriors of Market Rate Units in the development, and satisfy the following conditions:

a) Inclusionary Units shall have habitable space of not less than 650 square feet for a one bedroom unit and an additional 300 square feet for each additional bedroom or 60 percent of the average square footage of the Market Rate Units with the same number of bedrooms, whichever is greater; provided that Inclusionary Units shall not exceed 2,000 square feet of habitable space;

b) the bedroom mix of inclusionary units shall be equal to the bedroom mix of the Market Rate Units in the development. In the event that Market Rate Units are not finished with defined bedrooms, all Inclusionary Units shall have three bedrooms;

c) the materials used and the quality of construction for Inclusionary Units, including heating, ventilation, and air conditioning systems, shall be equal to that of the Market Rate Units in the development, as reviewed by the planning and development department; provided that amenities such as so-called designer or high end appliances and fixtures need not be provided for Inclusionary Units.

(f)(7) Habitable Space Requirements. The total habitable space of Inclusionary Units in a proposed development shall not be less than 10 percent of the sum of the total habitable space of all Market Rate Units and all Inclusionary Units in the proposed development. As part of the application for a special permit under section 30-24(f), the Applicant shall submit a proposal including the calculation of habitable space for all Market Rate and Inclusionary Units to the planning and development department for its review and certification of compliance with this section as a condition to the grant of a special permit.

(f)(8) Inclusionary Housing Plan and Covenants. As part of the application for a special permit under section 30-24(f), the Applicant shall submit an inclusionary housing plan that shall be reviewed by the Newton Housing Authority and the planning and development department and certified as compliant by the planning and development department. The plan shall include the following provisions:

a) a description of the Inclusionary Units including at a minimum, floor plans indicating the location of the Inclusionary Units, number of bedrooms per unit for all units in the development, square footage of each unit in the development, amenities to be provided, projected sales prices or rent levels for all units in the development, and an outline of construction specifications certified by the Applicant;

b) a marketing and resident selection plan which includes an affirmative fair housing marketing program, including public notice and a disinterested resident selection process; provided that in the case of a marketing and selection plan for sale of Inclusionary Units to Eligible Households, the marketing and selection plan shall provide for "income blind" selection of Eligible Households and shall then provide for a preference order, to the extent permitted by law, first to City of Newton employees and then to residents of or workers in the City of Newton.

c) agreement by the Applicant that residents will be selected at both initial sale and rental and all subsequent sales and rentals from a listing of Eligible Households in accordance with the marketing and resident selection plan developed, advertised, and maintained by the Newton Housing Authority; provided that the Applicant shall pay the reasonable costs of the Newton Housing Authority to develop, advertise, and maintain the listing of Eligible Households;

d) agreement by the Applicant to develop, advertise, and provide a supplemental listing of Eligible Households to be used to the extent that Inclusionary Units are not fully subscribed from the Newton Housing Authority listing of Eligible Households;

e) an agreement that the Applicant shall execute and record in the Middlesex Registry of Deeds, as a senior interest in the title prior to the granting of any building permits, a covenant that endures for the life of the residential development as follows:

(i) for purchase units, a covenant running in favor of the City of Newton, in a form approved by the city solicitor, which shall limit initial sale and subsequent re-sales of Inclusionary Units to Eligible Households in accordance with provisions which incorporate sections 30-24(f)(1)b(ii), (f)(8)b), (f)(8)c), (f)(8)d), and (f)(8)e); and

(ii) for rental units, a covenant running in favor of the City of Newton, in a form approved by the city solicitor, which shall limit rental of Inclusionary Units to Eligible Households in accordance with provisions which incorporate sections 30-24(f)(1)b(i), (f)(8)b), (f)(8)c), (f)(8)d) and (f)(8)e);

f) at the discretion of the Applicant and with the agreement of the Newton Housing Authority, an agreement, in a form approved by the city solicitor, to convey rental units to the Newton Housing Authority for sale or rental to Eligible Households; and

g) in the case of rental housing, an agreement to submit an annual compliance report to the Newton Housing Authority, in a form approved by the city solicitor, certifying compliance with the provisions of section 30-24(f) of the zoning ordinances; provided that in the event of a dispute over compliance, the costs of enforcement will not be borne by the Newton Housing Authority.

(f)(9) Public Funding Limitation. The intent of section 30-24(f) is that an Applicant is not to use public funds to construct Inclusionary Units required under this section; this provision however, is not intended to discourage the use of public funds to generate a greater number of affordable units than are otherwise required by this subsection. If the Applicant is a non-profit housing development organization and proposes housing that is entirely affordable to Eligible Households, they are exempt from the provisions of this subsection.

(f)(10) Elder Housing with Services. In order to provide affordable elder housing with services on-site, the following requirements shall apply exclusively when an Applicant seeks a special permit for housing with services designed primarily for elders such as residential care, continuing care retirement communities, assisted living, independent living, and congregate care. The services to be provided shall be an integral part of the annual rent or occupancy related fee, shall be offered to all residents and may include in substantial measure long term health care and may include nursing, home health care, personal care, meals, transportation, convenience services, and social, cultural, and education programs. This section shall not apply to a nursing facility subject to certificate of need programs regulated by the Commonwealth of Massachusetts Department of Public Health or to developments funded under a state or federal program which requires a greater number of elder units or nursing beds than required here.

a) Maximum Contribution The Applicant shall contribute 2.5 percent of annual gross revenue from fees or charges for housing and all services, if it is a rental development or an equivalent economic value in the case of a non rental development. The amount of the contribution shall be determined by the director of planning and development, based on analysis of verified financial statements and associated data provided by the Applicant as well as other data the director may deem relevant.

b) Determination The board of aldermen shall determine, in its discretion, whether the contribution shall be residential units or beds or a cash payment after review of the recommendation of the director of planning and development. In considering the number of units or beds, the director may consider the level of services, government and private funding or support for housing and services, and the ability of low and moderate income individuals to contribute fees. The Applicant shall provide financial information requested by the director. If the petitioner or Applicant is making a cash contribution, the contribution shall be deposited in accordance with section 30-24(f)(4); provided that one half of the payment shall be made to the Newton Housing Authority, and one half of the payment shall be made to the inclusionary housing development fund established under section 30-24(f)(4).

c) Contributed Units or Beds Contributed units or beds shall be made available to individuals and households whose incomes do not exceed 80 percent of the applicable median income for elders in the Boston Municipal Statistical Area, adjusted for household size.

d) Selection The Applicant or manager shall select residents from a listing of eligible persons and households developed, advertised, and maintained by the Newton Housing Authority; provided that the Applicant shall pay the reasonable costs of the Newton Housing Authority to develop, advertise, and maintain the listing of eligible persons and households. Should the Applicant or manager be unable to fully subscribe the elder housing with services development from the Newton Housing Authority listing, the Applicant or manager shall recruit eligible persons and households through an outreach program approved by the director planning and development. The Applicant or manager shall certify its compliance with this section 30-24(f)(9) annually in a form and with such information as is required by the director of planning and development. To the extent permitted by law, Newton residents shall have first opportunity to participate in the elder housing with services program set out here.

e) Residential Cash Balances If, after calculation of the number of units or beds to be contributed under this section 30-24(f), there remains an annual cash balance to be contributed, that amount shall be contributed as set out in subparagraph b) above. Any such

contribution shall not reduce the contribution required in future years.

(f)(11) Hotels. Whenever an application for a special permit seeks to increase the density of residential development for a hotel, the board of aldermen shall require a cash payment as a condition of any such grant. The amount of the payment shall be determined as 10 percent of the number of rooms in excess of that which existed on January 1, 1989 multiplied by the estimated per room valuation following construction, as determined by the assessing department. Payment shall be made in accordance with section 30-24(f)(4); provided that one half of the payment shall be made to the Newton Housing Authority, and one half of the payment shall be made to the inclusionary housing development fund established under section 30-24(f)(4).

(f)(12) No Segmentation. An Applicant for residential development shall not segment or divide or subdivide or establish surrogate or subsidiary entities to avoid the requirements of this section 30-24(f). Where the board of aldermen determines that this provision has been violated, a special permit will be denied. However, nothing herein prohibits phased development of a property.

(f)(13) No Effect on Prior or Existing Obligations. This amendment to section 30-24(f) shall have no effect on any prior or currently effective special permit, obligation, contract, agreement, covenant or arrangement of any kind, executed or required to be executed, which provides for dwelling units to be made available for sale or rental to or by the City, the Newton Housing Authority, or other appropriate municipal agency, or any cash payment so required for affordable housing purposes, all resulting from a special permit under section 30-24(f) applied for or granted prior to the effective date of this amendment.

(f)(14) No Effect on Accessory Apartments. This section 30-24(f) shall not apply to accessory apartments regulated under sections 30-8(d) and 30-9(h).

(f)(15) Severability, effect on other laws. The provisions of section 30-24(f) are severable. If any subsection, provision, or portion of this section is determined to be invalid by a court of competent jurisdiction, then the remaining provisions of this section shall continue to be valid.

**Webmasters Note: The previous subsection, 30-24(f), has been amended as per an ordinance dated 4/22/03.

(g) Conditions of Approval. The board of aldermen shall not approve any application for a special permit unless it finds that said application complies in all respects with the requirements of this ordinance. In approving a special permit, the board of aldermen may attach such conditions, limitations, and safeguards as it deems necessary to protect or benefit the neighborhood, the zoning district and the City. Such conditions may include, but are not limited to, the following:

- (1) requirement of front, side or rear yards greater than the minimum required by this ordinance;
- (2) 1 limitation of the number of occupants. size, method of time of operation, or extent of facilities;
- (3) requirement of off-street parking or other features beyond the minimum required by this, or any other applicable ordinance.

(Rev. Ords. 1973, §24-29; Ord. No. 31, Pt. IV, 12-2-74; Ord. No. 51, Pt. II, 2-3-75; Ord. No. 202, Pt. III(L), 3-21-77; Ord. No. 212, 5-2-77; Ord. No. 272, Pt. IV, 5-15-78; Ord. No. 284, Pts. X, XIV, 6-19-78; Ord. No. R-238, 3-15-82, Ord. No. R-259, 8-9-82; Ord. No. T-76, 3-5-90; Ord. No. T-101, 8-13-90; Ord. No. T-198, 12-16-91; Ord. No. T-319, 12-20-93; Ord. No. V-9, 2-21-95)

What year was the inclusionary/incentive provision adopted?

1977 According to Tricia Guditz, she was not aware specifically when Newton created its rule on inclusionary zoning, but stated to researcher that it had been going on for "a while."

The inclusionary zoning rule has been in existence for years in Newton, according to affordable housing office. It was changed last April (2004) which changed the density bonus from 10% to 15%.

According to survey received from Newton on 4/26/05, the inclusionary/incentive provision was adopted in 1977.

Have affordable units been developed through this zoning mechanism?

Yes Since its inception, it has resulted in 85 affordable units, restricted in perpetuity and some affordable housing units in Newton will last at a range for 20 years to 40 years.

Most affordable housing units are owned and managed by the Newton Housing Authority.

10% allowed cash payment in lieu of building. 4 cash payments to date.

Norfolk

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

Yes ZONING BYLAW FOR THE TOWN OF NORFOLK, MASSACHUSETTS

Section H. OPTION ZONING

H.3. AFFORDABLE HOUSING DEVELOPMENT

H.3.a. Purpose

In the General Laws Chapter 40A, the particular intent relating to elective inclusionary overlay zoning in all residential districts is to increase the production of SINGLE FAMILY DWELLINGS affordable to all persons of low and moderate income. Affordable housing may be created by employing incentives offered under the inclusionary overlay zoning which is intended to encourage the utilization of the Town=s remaining residentially zoned developable land in a manner consistent with local housing policies and needs, and to encourage new housing developments to contain a proportion of the SINGLE FAMILY DWELLINGS affordable to persons of low or moderate income by offering the option of increased density to encourage the creation of such housing. Accordingly, the goals of this development program are to: increase the supply of housing in the Town that is available to and affordable by low and moderate income households; to encourage a greater diversity of housing accommodations to meet the needs of family households; and to promote a reasonable mix and distribution of housing opportunities in residential neighborhoods throughout the Town.

H.3.b. AFFORDABLE HOUSING OPTION

The following procedure is available in order to carry out the purposes of inclusionary housing previously defined as AFFORDABLE HOUSING DEVELOPMENT.

The provisions of this section shall apply to all developments of parcels in residential districts having ten or more acres and which create ten or more new SINGLE FAMILY DWELLINGS. Tracts of land may be developed under the provisions of the existing zoning, or an applicant who owns the parcel, or who has the right to develop it, may elect to proceed under the bonus provisions described in Section H.3.

H.3.c. APPLICANTS who meet the foregoing requirements may apply to the Zoning Board of Appeals for a special permit that will allow them to receive additional SINGLE FAMILY DWELLINGS and relaxation of frontage requirements in exchange for the provision of affordable SINGLE FAMILY DWELLINGS. To the extent permitted by law, the Planning Board shall determine that the requirements of the Site Plan Approval achieve the provisions of zoning by law. To the extent permitted by law, if a subdivision is involved, a definitive subdivision plan shall be submitted to the Planning Board in addition to the submission required under Site Plan Approval procedures. The Norfolk Housing Authority or any successor organization having similar interests shall be included in the agencies receiving the distribution copies of plans for comment.

H.3.d. The number of additional SINGLE FAMILY DWELLINGS permitted under these procedures may not exceed 20% of that otherwise permitted under the underlying zoning, as demonstrated by a plan submitted to the Zoning Board of Appeals and the Planning Board. In determining the number of additional SINGLE FAMILY DWELLINGS (size of the bonus option) be granted, the Planning Board may consider a number of factors including: the cost of the land; the cost of development including the cost of construction of the SINGLE FAMILY DWELLINGS and infrastructure; and the proposed market price of the SINGLE FAMILY DWELLINGS to be built. In addition to any other waiver permitted under use or intensity regulations, requirements for area and/or frontage may be reduced as follows: area may be reduced up to 15% of the minimum intensity requirements of the underlying zone; frontage may be reduced up to 20% of the minimum required in the underlying zoning district.

H.3.e. Provided that additional SINGLE FAMILY DWELLINGS are granted by the Zoning Board of Appeals and the Planning Board under the previous provision, then affordable SINGLE FAMILY DWELLINGS shall be provided in any one of the following alternatives, subject to approval of the Planning Board:

H.3.e.1. By donation to the Norfolk Housing Authority, a minimum of 5% of total SINGLE FAMILY DWELLINGS in the development, rounded up to the next whole number.

H.3.e.2. By sale to the Norfolk Housing Authority, a minimum of 10% of total SINGLE FAMILY DWELLINGS in the development, rounded up to the next whole number.

H.3.e.3. By sale directly to low or moderate income households, a minimum of 10% of total SINGLE FAMILY DWELLINGS in the development, rounded up to the next whole number.

H.3.f. SINGLE FAMILY DWELLINGS to be donated to the Norfolk Housing Authority are subject to the approval of the Norfolk Housing Authority, and of the applicable federal or state funding agency.

H.3.g. SINGLE FAMILY DWELLINGS set aside for sale to the Norfolk Housing Authority shall be offered at prices which do not exceed the greater of: the construction costs of the particular SINGLE FAMILY DWELLINGS, the current acquisition cost limits for the SINGLE FAMILY DWELLINGS under applicable state or federal financing programs. If the Norfolk Housing Authority is unable to purchase the set-aside units at the time of completion, the units shall be for sale to low or moderate income households.

H.3.h. SINGLE FAMILY DWELLINGS set aside for low/moderate income households shall be offered only to those households which qualify as A_{low}@ or A_{moderate}@ in accordance with the definitions set forth in this bylaw, as defined and determined by Commonwealth of Massachusetts Department of Housing and Community Development [DHCD]).

H.3.i. Each SINGLE FAMILY DWELLING created in accordance with this section shall have limitations governing its resale as conditioned by the Special Permit. Such limitations shall have as their purpose to preserve the long-term affordability of the SINGLE FAMILY DWELLING and to ensure its continued availability to low or moderate income households. The limitations may include a formula to determine the maximum selling price which will take into account the lowered mortgage rates available to the owner at time of purchase, any appreciation to date of proposed sale, and any regulations of the agency which may have participated in providing financing for the original purchase. Additionally, such limitations may provide that in the event of a market rate sale a sum of money shall be returned to a designated agency in the Town that reflects the differential in mortgage rates enjoyed by the owner as a result of less than market rate financing. The resale controls shall be established through a deed restriction, and shall be in force for the maximum period that is permitted under the Massachusetts General Laws. Such restrictions may also provide that the

Norfolk Housing Authority shall have a prior right of purchase at the price determined according to the restriction for a period of thirty days after the affordable SINGLE FAMILY DWELLING is placed on sale. Notice of any proposed sale shall be given to the Zoning Board of Appeals, Planning Board and the Norfolk Housing Authority.

H.3.j. Affordable SINGLE FAMILY DWELLINGS to be offered for sale under these provisions shall, for a period of six months from the date of first offering for sale, be offered on a 50%-50% basis to residents of the Town of Norfolk and to persons employed within the Town of Norfolk. Norfolk residency status will be given only to one who had been a resident for at least one year within the previous five years. Such preference shall not be given if prohibited by, or to the extent prohibited by, a federal or state agency under a financing or other subsidy program. Persons who are both residents and work in the Town of Norfolk shall be given only one preference.

H.3.k. To the extent permitted by law, in addition to any requirements under Site Plan Approval, the Special Permit, and/or subdivision approval, an applicant must submit a development plan acceptable to the Zoning Board of Appeals and the Planning Board indicating how the parcel could be developed under the underlying zoning (i.e. a baseline plan). Any bonus granted shall be calculated from the baseline plan. The development plan showing the bonus SINGLE FAMILY DWELLINGS shall also indicate the proposed affordable SINGLE FAMILY DWELLINGS, which must be dispersed throughout the parcel to ensure a mix of market-rate and affordable housing. Affordable SINGLE FAMILY DWELLINGS shall have an exterior appearance that is compatible with, and to the extent possible, indistinguishable from the market rate SINGLE FAMILY DWELLINGS in the development. Affordable SINGLE FAMILY DWELLINGS shall contain at least two or more bedrooms and shall be suitable as to design for family occupancy. The owners of affordable SINGLE FAMILY DWELLINGS shall have all rights and privileges accorded to market rate owners regarding amenities within the development.

H.3.l. Notwithstanding other provisions of this section, affordable housing consistent with housing as may be allowed in other districts shall be permitted to the extent and subject to the same limitations as set forth in other districts.

Nothing in this section shall be construed to prohibit that type of residential development as designed for an affordable housing context so long as the type of said affordable housing is consistent with that housing presently allowed or allowed by special permit and to the extent it shall be subject to the same limitations and requirements as effect such permitted use.

This Section is not intended to preclude development of other forms of affordable housing in other districts where residential uses are permitted provided however that it is consistent with the specifically allowed residential use in those other districts.

To the extent that site plan approval is required in any other district it shall also be required for any affordable housing in such districts.

From definitions on ordinance.com:

AFFORDABLE HOUSING DEVELOPMENT - Any new housing development in a residential district filed under State and/or Federal Grants that would contain a proportion of SINGLE FAMILY DWELLINGS affordable to persons of low or moderate income (as defined and determined by Commonwealth of Massachusetts Department of Housing and Community Development [DHCD]).

What year was the inclusionary/incentive provision adopted?

early 1990 Answer based upon 7/9/04 phone conversation with Gino Carlucci, Norfolk Planner (508) 528-2961 -- He said that the provision was put into place "in early 1990s or late 1980s".

Have affordable units been developed through this zoning mechanism?

No According Gino Carlucci, Norfolk Planner, (7/9/04) no units have been built with this zoning mechanism.

Norfolk 2004 Community Development Plan:

Town Actions Since Adoption of 1992 Master Plan and 2002 Growth Management Project

"Density Bonus For Affordable Housing – The Town amended its Zoning Bylaw to provide up to a 10% density bonus for housing developments that included affordable housing. To date, no developers have taken advantage of this provision."

Recommendation in the 2004 Community Development Plan:

"• Review/Revise Affordable Housing Development Provision of Zoning Bylaw
The current provision of the Zoning Bylaw (Section H.3) that provides density bonuses for affordable housing has never been used by a developer. This provision needs to be reviewed and possibly revised in order to make it more attractive to developers. Currently, the provision only provides a density bonus for the affordable housing units themselves. In addition, it requires affordable units to be single family dwellings. It may be more attractive if it allowed multi-unit buildings designed to

look like comparable single family homes in the neighborhood. Also, consideration should be given to applying the bonus provision to multi-family dwellings (agerestricted) as well as single-family homes."

North Andover

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

Yes There is incentive zoning as a part of the PUD bylaw:

8.5 Planned Residential Development (PRD)

H. Density Bonuses

1. Affordable Housing Bonus

For all PRD's the total number of allowable lots and/or dwelling units may be increased up to 20% if the developer designates at least 30% of the total number of units for use in conjunction with one or more state or federal housing assistance programs.

However, in the instance where the use of federal or state programs are not available to the Housing Authority, the Planning Board, after consultation with the Housing Authority, may propose alternative methods of attaining the Affordable Housing Bonus.

The developer shall certify, in writing to the Planning Board that the appropriate number of dwelling units have been set aside and conveyed to the North Andover Housing Authority (or other actions are required), before the Planning Board shall grant any special permit with density bonus provisions.

Further, the developer shall be responsible to work with the North Andover Housing Authority to initiate and conclude occupancy of said units within one year of their completion. Failure to do so shall be deemed a violation of the special permit criteria.

The granting of this bonus density shall not exempt the proposed development from any other criteria required by this section or regulation contained in the Town Bylaws.

Also a part of the Independent Elderly Housing:

SECTION 14 INDEPENDENT ELDERLY HOUSING

14.6 Density Bonus

a. Affordable Housing: For all Independent Elderly Housing, the total number of allowable dwelling units may be increased by 25%, if the applicant designates at least 10% of the total number of units for use as affordable elderly housing units. Such units may be rented, sold or otherwise provided to elderly persons qualified to receive federal or state rental assistance or subsidies for reducing mortgage payments in accordance with income and assets limitations established by the authorizing state or federal agency. The applicant may choose to meet affordable housing requirements directly by utilizing similar income and assets standards and establishing rents, sales price of entry fees for units which are determined to be generally consistent with those established under the various subsidy programs. For this purpose, the Planning Board in consultation with the Housing Authority, may establish the rent, carrying charge, maintenance fee, sales price or entry fee in order to meet the requirements for affordable housing. Such units shall be maintained as affordable housing units for the life of the Independent Elderly Housing development. In the event that the applicant is unable to meet its obligations in the manner prescribed above, or as an alternative program, the Planning Board may allow the applicant to contribute funds, in lieu of housing units, to the: Town, Housing Authority or any public or non-profit agency which is authorized to develop or support affordable elderly housing. The rate of contribution shall be two (2) dollars per square foot of Gross Floor Area of all buildings and structures exclusive of underground parking or swimming pools. The granting of this density bonus shall not exempt the applicant from meeting any of the other provisions of this or other referenced sections of this Bylaw.

What year was the inclusionary/incentive provision adopted?

1988 According to survey received from North Andover on 3/15/05 (completed by Town Planner Lincoln Daley): 1988

Have affordable units been developed through this zoning mechanism?

Yes According to survey received from North Andover on 3/15/05 (completed by Town Planner Lincoln Daley): "Yes"

North Attleborough

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

No Researcher found no mention of inclusionary zoning anywhere in the bylaws. Donald Johnson, Town Planner, (11/4/04) confirmed this. Mr. Johnson did state that this is an issue that the town is currently looking at.

What year was the inclusionary/incentive provision adopted?

Have affordable units been developed through this zoning mechanism?

North Reading

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

No

What year was the inclusionary/incentive provision adopted?

Have affordable units been developed through this zoning mechanism?

Northborough

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

Yes Town of Northborough Zoning Bylaw
7-20-080 Affordable Housing/Conditional Density Bonus [Amended 5-16-1988 ATM, Art. 39]

A. Purpose and authority. The purpose of this section is to further the goal of encouraging various housing types for persons of various income levels, specifically those households and families with low and moderate incomes. It is intended to help people who, because of rising land prices, have been unable to obtain suitable housing at an affordable price and to assist in maintaining a stable economy by preventing the outmigration of lower-income groups who provide essential services within the town. This type of bylaw is specifically authorized within MGL C. 40A, § 9.

B. Applicability. Any parcel of land in the RA, RB or RC Zone that is greater than ten (10) acres in size may be eligible for a density bonus. Within Zone 1 of the Groundwater Protection Overlay District only, no density bonuses shall be granted which will increase the number of units above that allowed by existing zoning.

C. Procedures. No development shall be granted a density bonus unless it is proposed within a cluster-style subdivision. The application and review process will be as required for all subdivisions by the Northborough Subdivision Rules and Regulations* and as required for all special permits, as required by this chapter. The Planning Board will be the special permit granting authority. Applicants are required to submit preliminary proposals.

D. Requirements.

(1) Design. Developments receiving density bonuses must be of a cluster-style design, but need not comply with all the requirements of § 7-20-070 of this chapter, unless stated specifically within this section. The purpose of requiring a cluster-style design is to use land efficiently, to create more effective open areas and to allow for adequate screening of new development from public roads and neighboring land uses. Dimensional requirements of the project design shall be as follows:

(a) Unlike clusters allowed in § 7-20-070, projects receiving density bonuses may include detached single-family or attached multifamily structures up to six (6) units per structure per acre.

(b) Lots for single-family structures shall be a minimum of ten thousand (10,000) square feet per unit. Lots for multifamily structures shall be a minimum of twenty thousand (20,000) square feet regardless of the total number of units.

(c) Minimum lot frontage shall be no less than fifty (50) feet. There shall be no minimum width or depth requirements.

(d) Yard setback and lot coverage requirements as set forth in the Schedule of Dimensional Requirements** shall apply.

(e) At least thirty-five percent (35%) of the total tract must be permanently restricted for open space. No more than one-fourth (1/4) of the required thirty-five percent (35%) of open space shall be wetland.

(2) Number of allowed units. The number of units allowed above as-of-right density will be no more than thirty-five percent (35%) above the number allowed within a grid-type subdivision of the property. The number of units allowed within a grid-type subdivision shall be determined by multiplying eighty-hundredths (0.80) by the total upland area of the tract and dividing by the minimum lot size required in the applicable zoning district. The Planning Board may allow a smaller number of bonus units if necessary to better meet the design requirements and to better suit the public interest.

(3) Number of affordable units. A minimum of thirty percent (30%) of the total units of the project shall be made available to low-and moderate-income households at affordable prices, as described in Subsection D(4) below.

(4) Affordable housing occupants. Units may be purchased or rented by those who meet the guidelines for maximum annual income for a low-income or moderate-income family. For the purposes of Subsection D, low-income and moderate-income families shall be defined by the applicable subsidy program which the project proponent will utilize. "Affordability" means that housing costs for a family shall not exceed thirty percent (30%) of their gross annual income in the previous calendar year. Housing costs include for homeowners, payments for principal or interest on a mortgage, real estate taxes, homeowners' insurance and condominium fees, if any; or for renters, rent, including heat, but not other utilities. In determining median income, the most recent date available from a source to be approved by the Planning Board shall be used.

(5) Sale price. The sale price of the affordable units will be determined by reference to the most recent Massachusetts Housing Partnership (MHP) figures depicting the ability to purchase of target groups whose income is approximately eighty percent (80%) of the Northborough median income figures.

(6) Construction requirements. Specific construction standards shall be made part of the special permit and will be used to ensure structural conformity between market and affordable units.

(7) Architectural standards. The proposed architectural style of affordable units shall be similar. Market and affordable units should not be substantially distinguishable from the exterior.

E. Project approval standards. The Planning Board will review all projects and shall approve the special permit if, in the Board's sole discretion:

(1) The Board is satisfied that the applicant has conformed to the requirements of this chapter and will deliver the needed affordable units.

(2) The proposed development site plan is designed in its site allocation, proportions, orientation, materials, landscaping and other features as to provide a stable and desirable character, complementary and integral with the site's natural features.

(8) The Board makes a finding that such development, density increase or relaxation of zoning standards does not have a detrimental effect on the character of the neighborhood or town and is consistent with the purposes of this chapter.

(9) The proposed development is consistent with the goals and objectives of the Northborough Master Plan.

F. Long-term affordability.

(1) In order to maintain long-term affordability for low- and moderate-income home buyers, there shall be certain equity restrictions upon the unit's resale value. This resale price restriction will be incorporated into the deed conveying the property to the initial purchaser and will bind all subsequent purchasers for a period of forty (40) years after the initial conveyance.

(2) The resale of the affordable housing units, as described in Subsection D, will be limited to a percentage of the unit's market value at the time of resale. This limitation will be determined by the percent below market value for which the home originally sold. This percentage shall be recorded as part of the deed restriction. All subsequent resales for a period of forty (40) years after the initial conveyance shall be recorded as part of the deed restriction. All subsequent resales for a period of forty (40) years after the initial conveyance shall be discounted by this same percentage from the market value of the house at the time of the resale. Through agreement between the Planning Board and the developer, these parties may choose, at the time of the recording of the deed, to modify the differential by plus or minus five percent (5%) in order to assure that the target income groups' ability to purchase be kept in line with the unit's market appreciation and to provide a proper return on equity to the seller.

(3) All deed restrictions will require that the homeowner give a ninety-day right-of-first-refusal to the Northborough Housing Authority. If the Housing Authority or other appropriate housing organization fails to respond to the homeowner within thirty (30) days to the effect that it is proceeding to find an eligible buyer, the homeowner may thereafter sell the home to anyone meeting income guidelines. (Prior code § 174-20.1)

What year was the inclusionary/incentive provision adopted?

1988 Town of Northborough Zoning Bylaw
7-20-080 Affordable Housing/Conditional Density Bonus [Amended 5-16-1988 ATM, Art. 39]

Have affordable units been developed through this zoning mechanism?

No Town planner Kathy Joubert said (10/25/04) that the inclusionary by-laws have never once been used. She said that the planning board will revisit the issue this coming spring (2005.)

Northbridge

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

Yes Town of Northbridge Zoning Bylaw Chapter 173 (Amended 2002)

§ 173-81. Purpose. The purpose of this Article XIV, Flexible Development, is to encourage the presentation of open land for its scenic beauty and to enhance agricultural, open space, forestry and recreational use; to preserve historical and archaeological resources; to protect the natural environment; to protect the value of real property; to promote more sensitive siting of buildings and better overall site planning; to perpetuate the appearance of Northbridge's traditional New England landscape; to allow landowners a reasonable return on their investment; to facilitate the construction and maintenance of streets, utilities and public services in a more economical and efficient manner; and to promote the development of housing affordable to low- and moderate-income families.

§ 173-110. Purpose. The purpose of the Senior Living Bylaw is to encourage residential development that provides alternative housing choices for people that are fifty-five (55) years of age or older. For the purposes of this bylaw, housing units are intended for occupancy by persons fifty-five or over within the meaning of MGL, c.151B, § 4.6. and shall comply with the provisions set forth in 42 USC 3601 et seq. This bylaw is also intended to promote affordable housing, efficient use of land and public infrastructure, and to preserve open space.

§ 173-112. General requirements.

...

F. A minimum of 10% of the total units shall be affordable in perpetuity. Affordable units are defined as (a) dwelling units that are available for sale and sold at a selling price that will result in an Annual Shelter Cost (rent or mortgage, heat, cooking fuel and electricity) of not more than 30% of the Annual Household Income of a Qualified Affordable Housing Unit Purchaser or (b) available parental and rented at an annual rent that will result in an Annual Shelter Cost of not more than 30% of the Annual Household Income of a Qualified Affordable Housing Unit Tenant. Affordable units shall be dispersed throughout the development and shall be indistinguishable from market rate units. The Northbridge Housing Authority shall be responsible for choosing purchasers or tenants, and monitoring and insuring the long-term affordability of the units.

J. The Planning Board may grant density bonuses under the following provisions, provided however, that at no time shall there be more than 6 units per buildable acre of land: (1) Affordability: For each affordable housing unit provided above the minimum required 10%, one additional housing unit may be permitted.

From ordinance.com, section adopted 2004:

ARTICLE XIX Historic Mill Adaptive Reuse Overlay District

Section 173-XXX Development Standards.

In order to be eligible for consideration for a special permit pursuant to this Article, the proposed development shall meet all of the following standards:

A. Density. For the conversion of a historic mill that proposes multi-family dwelling units, the maximum number of dwelling units shall not exceed ten (10) units per gross acre of the combined parcels of the development. The Planning Board may grant a density bonus under the following provision:

(1) Affordability: For each affordable dwelling unit provided above the minimum required 10%, two (2) additional dwelling units may be permitted.

B. Parking. Number of Parking Spaces. The Applicant shall provide adequate parking to serve all anticipated uses on the property, with information detailing the method of computation of parking spaces. The minimum number of parking spaces shall be computed using the requirements of § 173-27. The Planning Board may allow a reduction of the required number of spaces by up to twenty-five percent (25%) if it can be demonstrated that two (2) or more uses within the development can share parking spaces. In determining the appropriate reduction, if any, the Planning Board may give consideration to the hours of operation and/or usage of the proposed uses within the development, the opinions of merchants, residents and municipal officials as to the adequacy or inadequacy of parking spaces within the surrounding area, as well as other relevant information.

C. Expansion of Existing Buildings. Existing buildings, through a special permit under this section, may be expanded provided that such expansion is consistent with the existing building's historic character and scale and does not cause substantial detriment after considering the factors set forth herein.

D. New Buildings. New buildings, through a special permit under this section, may be constructed provided that the number, type, scale, architectural style, and uses within such new buildings shall be subject to Planning Board approval.

E. Affordable Dwelling Units. As a condition of any special permit for the conversion of a historic mill that proposes multi-family dwelling units, a minimum of ten (10%) of the total number of dwelling units shall be required, in perpetuity, to be restricted to persons qualifying as moderate income in accordance with the Massachusetts Department of Housing and Community Development definitions of low and moderate incomes.

Affordable units shall be dispersed throughout the development and shall be indistinguishable from market rate units. The Town of Northbridge, through its Housing Authority and/or Office of Community Development, shall be responsible for selecting purchasers or tenants, and monitoring and insuring the long-term affordability of the units.

**Webmasters Note: The previous Article has been added as per an update approved at a town meeting held on 6/8/04.

What year was the inclusionary/incentive provision adopted?

2001 1996 Flexible Development
2001 Senior Living Bylaw
2004 Mill Adaptive Reuse Overlay

Have affordable units been developed through this zoning mechanism?

No New Building Inspector said that he did not know about the inclusionary provisions or their results. (10/30/04)

Survey received from Northbridge on 5/4/05:

Have affordable units been developed through this zoning mechanism?

"Not yet"

Norton

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

Yes Town of Norton Zoning Bylaw, 2004

ARTICLE XIX - AFFORDABLE HOUSING
19.1 PURPOSE AND INTENT

The purpose of this bylaw is to provide housing in the Town of Norton that is affordable to low or moderate income households. It is intended that the affordable housing units that result for this bylaw shall qualify as Local Initiative Units (LIP) in compliance with the requirements for the same as specified by the Department of Community Affairs., Division of Housing and Community Development and that said units count toward the Town's requirements under G. L. Chapter 40B, Sections 20-23.

19.2 DEFINITIONS

AFFORDABLE HOUSING UNIT . A dwelling unit available at an annual cost of no more than 30% of gross household income of households at or below 80% of the Boston MSA median income as reported by the U.S. Department of Housing and Urban Development including units listed under Massachusetts General Law, Chapter 40B, Sections 20-23 and/or the Commonwealth's Local Initiative Program (LIP).

QUALIFIED AFFORDABLE HOUSING UNIT PURCHASER OR TENANT . An individual or family with 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).

19.3 APPLICABILITY

19.3.1 Division of Land. This bylaw shall apply to the division of land held in single ownership as of October 8, 2003, or anytime thereafter, into six (6) or more lots, whether such lots are created at one time or cumulatively from said land held in single ownership, and shall require a Special Permit. A Special Permit shall be required for land divisions under G.L. c. 4 f A, Section 9 as well as for "conventional" or "grid" divisions allowed by G.L. c. 41, Section 81-L and Section 81-U, including those divisions of land that do not require subdivision approval. The Norton Planning Board shall be the Special Permit Granting Authority (SPGA) for all Special Permits under this by-law.

**Webmasters Note: The previous subsection has been amended as per an update approved at a town meeting held on 5/10/04.

19.3.2 Multiple Units. This bylaw shall apply to the construction of six (6) or more multi-family dwelling units, whether on one or more contiguous parcels, in existence as of October 8, 2003 and shall require a Special Permit.

19.4 MANDATORY PROVISION OF AFFORDABLE UNITS

The Planning Board shall, as a condition of approval of any division of land or construction of multiple units referred to in Section 19.3, above, require that the applicant for approval of a Special Permit comply with the obligation to provide affordable housing pursuant to this bylaw and more fully described in Section 19.5, below.

19.5 PROVISION OF AFFORDABLE UNITS

The Planning Board shall deny any application for a Special Permit for division of land or construction of multiple units under this by-law if the applicant does not comply, at a minimum with the following requirements for affordable units.

19.5.1 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:

19.5.1.1 The affordable units shall be constructed or rehabilitated on the subject property; l

19.5.1.2 the affordable units shall be constructed or rehabilitated on a property different than the property subject to the Special Permit;

19.5.1.3 the applicant shall make an equivalent fees-in-lieu-of payment (see Section 19.10);

19.5.1.4 the applicant may offer, and the Planning Board after consultation with the Board of Selectmen may accept, donations of land in fee simple, on or offsite, that the Planning Board determines are suitable for the construction of affordable housing units. The value of donated land shall be equal to or greater than the value of the construction or set-aside of the affordable units. The Planning Board may require, prior to accepting land as satisfaction of the requirements of this bylaw, that the applicant submit appraisals of the land in question, as well as other data relevant to the determination of equivalent value.

19.5.2 The applicant may offer, and the Planning Board may accept, any combination of the Section 19.5 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 bylaw.

19.6 PROVISIONS APPLICABLE TO AFFORDABLE HOUSING UNITS ON AND OFF-SITE

19.6.1 Siting of Affordable Units. All affordable units constructed or rehabilitated under this bylaw shall be situated within the development 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.

19.6.2 Minimum Design and Construction Standards for Affordable Units. Affordable 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. Interior feature of affordable units shall comply in all respects to the minimum design and construction standards set forth in the Local Initiative Guidelines by the Division of Housing and Community Development, July 1996, as amended.

19.6.3 Timing of Construction or Provision of Affordable Unit or Lots. Where feasible, 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 Units %/Affordable Units %

Up to 30%/None required

30% + 1 unit/at least 10%

up to 50%/at least 30%

up to 75%/at least 50%

75% + 1 unit/at least 70%

up to 90%/100%

19.7 LOCAL PREFERENCE

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

19.8 MARKETING PLAN FOR AFFORDABLE HOUSING UNITS

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

19.9 PROVISION OF AFFORDABLE HOUSING UNITS OFF-SITE

Subject to the approval of the SPGA, an applicant subject to this by-law may develop, construct or otherwise provide affordable housing units equivalent to those required by Section 19.5 off-site. All requirements of this bylaw 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.

19.10 PROVISION OF FEES-IN-LIEU OF AFFORDABLE HOUSING UNITS

As an alternative to the requirements of Section 19.5, and as allowed by law, an applicant may contribute a fee or land to a Norton Housing Trust Fund, established for the purpose of this by-law, to be used for the development of affordable housing in lieu of constructing affordable housing on-site or providing affordable units off-site.

19.10.1 Calculations of fees-in-lieu of units. The applicant for development subject to this by-law may pay fees in lieu of the construction or provision of affordable units. For the purpose of this by-law, the fee in lieu of the construction or provision of affordable units is determined to be \$200,000 per unit. For example, if the applicant is required to construct two affordable income units, they may at their option, pay \$400,000 in lieu of construction or provision of such units.

19.10.2 Schedule of fees in lieu of payments. Fee in lieu of payments shall be made according to the schedule set forth in Section 19.6.3, above.

19.11 MAXIMUM INCOME AND SELLING PRICE: INITIAL SALE

19.11.1 To ensure that only eligible households purchase affordable housing units, the purchaser of a affordable unit shall be required to submit copies of the last three years federal and state tax returns for the household and 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 Norton Local Housing Partnership, that his/her annual household income level does not exceed the maximum level as established by the Commonwealth's Division of Housing and Community Development, and as may be revised from time to time.

19.11.2 The maximum price or rent of the affordable units created under this bylaw is established by the Commonwealth's Division of Housing and Community Development and as may be revised from time to time.

19.12 PRESERVATION OF AFFORDABILITY; RESTRICTIONS ON RESALE

Each affordable unit created in accordance with this by-law shall have 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 on the property acceptable to DHCD, recorded in the Bristol County Northern Registry of Deeds and shall be in force for a period of ninety-nine (99) years or as long a period as is lawful, whichever is greater.

19.12.1 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 Norton at the time of resale.

**Webmasters Note: The previous subsection has been amended as per an update approved at a town meeting held on 5/10/04.

19.12.2 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, granting, among other things, the Town of Norton's right of first refusal for a period not less than one-hundred eighty days (180) 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.

19.12.3 Renting. The Planning Board shall require, as a condition for grant of the Special Permit under this bylaw, that the deeds to the affordable housing units contain a restriction requiring that any subsequent renting or leasing of said r affordable housing unit(s) shall not exceed the maximum rental price as determined by the DHCD for affordability within the Town of Norton.

19.12.4 The Planning Board shall require, as a condition for grant of the Special Permit under this bylaw, that the applicant comply with the mandatory set asides and accompanying restrictions of 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 Bristol County Northern Registry of Deeds or the Land Court.

**Webmasters Note: The previous subsection has been amended as per an update approved at a town meeting held on 5/10/04.

What year was the inclusionary/incentive provision adopted?

2003 The bylaw cites the date October 8, 2003 as the date of applicability. This date was also verified by Charles Gabriel by phone interview.

Ordinance.com lists the provision as approved in 2004:

19.3 APPLICABILITY

19.3.1 Division of Land. This bylaw shall apply to the division of land held in single ownership as of October 8, 2003, or anytime thereafter, into six (6) or more lots, whether such lots are created at one time or cumulatively from said land held in single ownership, and shall require a Special Permit. A Special Permit shall be required for land divisions under G.L. c. 4 f A, Section 9 as well as for "conventional" or "grid" divisions allowed by G.L. c. 41, Section 81-L and Section 81-U, including those divisions of land that do not require subdivision approval. The Norton Planning Board shall be the Special Permit Granting Authority (SPGA) for all Special Permits under this by-law.

**Webmasters Note: The previous subsection has been amended as per an update approved at a town meeting held on 5/10/04.

Have affordable units been developed through this zoning mechanism?

No Charles Gabriel, Town Planner, (12/15/04) said that this program is still relatively new. With the 6 lot division/multi-unit threshold, the mandatory affordable housing bylaw has still not been widely used.

Norwell

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

No There is mention of affordable housing in the section of the Bylaws which discusses the Village Overlay District (text below), but there is not requirement that a portion of the units built be affordable, rather it is "encouraged."

From Town of Norwell Zoning Bylaw, Article IV, Section 4600: "The applicant is encouraged to provide dwelling units at prices affordable to persons or families of low or moderate income. Such affordable dwelling units shall be integrated into the overall development so as to prevent the physical segregation of such units and shall otherwise be indistinguishable in all respects, including but not limited to materials, size and design, from comparable market price units."

What year was the inclusionary/incentive provision adopted?

Email from Town Planner Ilana Quirk:

3) The Village Overlay District was adopted at Town Meeting on May 25, 1999.

Have affordable units been developed through this zoning mechanism?

Email from Ilana Quirk, Town Planner, (6/2/05):

"5) To my knowledge, the only Village Overlay District project permitted by the Town, so far, is Donovan Farm. It does not have an affordable component."

Norwood

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

No

What year was the inclusionary/incentive provision adopted?

Have affordable units been developed through this zoning mechanism?

Paxton

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

Yes Paxton Zoning Bylaw (Amended 2003)

SECTION 9. SENIOR RESIDENTIAL DEVELOPMENT

9.1 Purpose

The purposes of Senior Residential Development (SRD) are:

1. To provide housing for a maturing population that reduces maintenance costs and is more affordable than traditional single family dwellings. ...

9.3.3 Requirements for Affordable Units

1. A minimum of twenty percent (20%) of the total units shall be affordable. A deed restriction in favor of the Town will be imposed on the affordable units which restriction shall be in perpetuity pursuant to Massachusetts General Laws Chapter 184, Sections 31-33. Affordable units shall be dispersed throughout the SRD and shall be indistinguishable from market rate units. Ownership units shall have use restrictions in favor of the Town recorded at the Worcester Registry of Deeds at the time of initial sale that limit the future sale of the units to households earning no more than eighty percent (80%) of the area median income (AMI).

2. Affordable units are those units affordable to households whose incomes do not exceed eighty percent (80%) of the AMI for the Worcester Metropolitan Statistical Area based on household size as determined by the U.S. Department of Housing and Urban Development (HUD). For rental units, monthly rents payable by a household exclusive of utilities shall not exceed 30% of the monthly income based on household size. For ownership units, initial purchase prices and resale prices shall be established so that

households are not required to spend more than 30% of the income for annual debt service on a mortgage (at 30-year fixed-interest rates at the time of initial sale), taxes, insurance, and condominium or homeowners fees with no more than a five percent (5%) down payment, including any required entrance deposit.

9.3.4 Building and Dwelling Unit Requirements:

...

Town Services Coordinator Nancy Wilby said that the town does not have any inclusionary housing but that an ad hoc committee has specifically been set up to address this as part of the town's affordable housing plan that is currently in the works. (11/19/04)

What year was the inclusionary/incentive provision adopted?

2003 Senior housing by-law which includes provisions for affordable housing is dated 2003.

From ordinance.com:

**Webmasters Note: The previous section, Section 9, has been amended as per an update approved at a town meeting held on 6/24/03.

Have affordable units been developed through this zoning mechanism?

Peabody

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

Yes Zoning Ordinance City of Peabody, Section 4.11 (Adopted 1978, Amended 2004)

4.11 INCLUSIONARY ZONING REQUIREMENTS

4.11.1 Purpose

The City of Peabody declares that the provision of a decent home and a suitable living environment for all is a community priority of the highest order; and that this priority is consistent with state, regional and national policies. The purpose of this Section is to enhance the public welfare through increasing the production of housing affordable to persons of very-low, low and moderate income. In order to encourage utilization of the City's land in a manner consistent with local housing policies and needs, the City requires new, converted or renovated housing developments to include a proportion of housing units that shall be affordable to persons of very-low, low and moderate income. Accordingly, the provisions of this Section are designed to: (1) increase the supply of rental and ownership housing in the City of Peabody that is available to and affordable to low and moderate income households; (2) exceed the 10% affordable housing threshold established by the Commonwealth in M.G.L. Chapter 40B, Section 20; (3) encourage a greater diversity and distribution of housing to meet the needs of families and individuals of all income levels.

4.11.2 Applicability

(1) General. The provisions of this Section shall apply in zoning districts R2, R3, R4, R5 and BC to all residential developments that involve the creation of eight (8) or more housing units, whether rental or ownership. The requirements must be satisfied before a Building Permit may issue.

(2) Types of developments. Residential developments subject to this Section shall include housing created both by new construction, or remodeling and conversion of an obsolete or unused building or other structure from its original or more recent use to an alternate use.

(3) Segmentation. Developments may not be segmented or phased to avoid compliance with these provisions.

4.11.3 Provision of affordable units.

(1) Number of units to be provided: All developments including a residential component which are subject to this Section shall be required to set aside a minimum of fifteen percent (15%) of the total number of dwelling units, and a minimum of fifteen percent (15%) of the total number of bedrooms, provided as affordable housing.

(2) Fractions: If, when applying the percentage to the total number of units to determine the number of affordable units, the resulting number of affordable units includes a fraction of a unit, this fraction, if over one-half (1/2), shall be rounded up to the next whole number. If the resulting number of affordable units includes a fraction of a unit equal to or less than one-half, the fraction shall be rounded down to the next whole number.

(3) Sale, lease or rental of units to very-low-, low-, and moderate income households: Units set aside for sale, lease or rental to very-low-, low-, and moderate-income households shall be restricted for occupancy by qualified households which meet the definition of "very-low," "low" and "moderate" income set forth in this ordinance.

(4) Distribution of affordability for rental units. Affordable rental units shall be set aside as follows:

- In developments which are required to include fewer than three (3) affordable units all affordable units shall serve low-income households.

- In developments which are required to include exactly three (3) affordable units,

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One (1) affordable unit shall serve a very-low-income household

One (1) affordable unit shall serve a low-income household

One (1) affordable unit shall serve a moderate-income household.

· In developments which are required to include more than three (3) affordable units, the units shall be distributed as follows:

25% shall serve very-low-income households

50% shall serve low-income households

25% shall serve moderate-income households.

(5) Affordability of ownership units. Affordable ownership units shall serve low-income households.

(6) Relationship to the affordable housing inventory. It is intended that the affordable housing units serving low and very-low income households that result from this ordinance be considered as Local Initiative Units in compliance with the requirements of the Commonwealth of Massachusetts Department of Housing and Community Development.

(7) Relationship to public funding programs. Developers may participate in public subsidy programs and still meet the requirements of this Section. Such participation will be subject to the approval of the subsidizing agency and to the unit price limitations of the funding program as well as those required by this Section. In case of conflicting price limitations, the lower price requirement shall prevail.

(8) Relationships to other organizations. Subject to the approval of the Department of Community Development and the applicable subsidizing agency, developers may elect to work with a local nonprofit housing provider, such as the Peabody Housing Authority, to distribute, maintain or operate the units in accordance with the requirements and intent of this Section 4.11.

4.11.4 Affordability requirements

(1) Duration of affordability: Affordable units shall be subject to restrictions that to the extent legally possible shall preserve the permanent affordability of the units as defined by this ordinance.

(2) Maximum rental price. Rents for the affordable units, including utilities, shall not exceed 30% of the targeted annual gross household income. Specific prices shall be determined by the state or federal funding source, if applicable, and are subject to approval by the Department of Community Development.

(3) Maximum sales price. Housing costs, including monthly housing payments, principal and interest payments, and insurance, shall not exceed 30% of the targeted gross household income. Specific prices shall be determined by the state or federal funding source, if applicable, and are subject to approval by the Department of Community Development.

(4) Resale prices. Subsequent resale prices shall be determined based on a percentage of the median income at the time of resale as determined by the federal Department of Housing and Urban Development and adopted by the Commonwealth of Massachusetts Department of Housing and Community Development. The resale price will be established based on a discount rate, which is the percentage of the median income for which the unit was originally sold. The method of resale price calculation shall be included as part of the deed restriction. Through agreement between the Department of Community Development and the developer or owner, this percentage may be increased or decreased by up to five per cent (5%) at the time of resale, in order to assure that the target income groups' ability to purchase will be kept in line with the unit's market appreciation and to provide a proper return on equity to the seller.

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(5) Marketing plan: The affordable units must be rented or sold using marketing and selection guidelines approved by the Department of Community Development and Planning.

(6) Preference for City residents and persons employed within the City. Unless otherwise prohibited by a federal or state agency under a financing or other subsidy program, not less than seventy percent (70%) of the affordable units shall be initially offered to current residents of the City of Peabody who have resided in the City for a minimum of five (5) years, to persons employed within the City of Peabody for at least five (5) years, and persons who, although not currently residents of the City, have previously resided in the City of Peabody for a minimum of five (5) years.

4.11.5 Development standards.

(1) Location of affordable units. Affordable units shall be dispersed throughout the development so as to ensure a true mix of market-rate and affordable housing.

(2) Comparability. Affordable units shall be to the extent possible externally indistinguishable from market rate units in the same development. Affordable units should be comparable to market rate units in terms of location, quality, character, and room size.

(3) Unit size. Except as otherwise authorized by the Department of Community Development, affordable units shall contain one or more bedrooms. The mix of unit sizes among the affordable units shall be proportionate to that of the development as a whole.

(4) Rights and privileges. The owners or renters of affordable units shall have all rights, privileges and responsibilities accorded to market-rate owners or renters, including access to all non-fee amenities within the development.

4.11.6 Incentives

To facilitate the objectives of this Section, modifications to the dimensional or parking requirements in the applicable zoning district shall be permitted for projects subject to the requirements of this Section. The modifications shall be permitted as set forth below. The following incentives are available only for projects in which the affordable units are provided on-site.

(1) In any R2 district: The minimum area of land required per lot shall be 5,000 square feet per two

family dwelling unit.

(2) In any R3 district: The maximum lot coverage may be increased to 30% from the currently allowed 20%. An area equal to twice the total area of the required affordable units may be exempted from the total square footage in calculations pertaining to the FAR. Twice the number of bedrooms in the affordable units may be exempted from the total number of bedrooms in calculations pertaining to land area required per bedroom.

(3) In any R5 district: Developments may exempt twice the number of affordable dwelling units required by current zoning in Section 4.4.7 (a) and an equal number of additional market rate units when calculating the maximum number of dwelling units per acre. Concurrently, developments may exempt twice the number of affordable bedrooms required by current zoning in Section 4.4.7 (a) and an equal number of additional bedrooms when calculating the maximum number of bedrooms per acre.

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(4) In any R4 or BC district: The following requirements shall be substituted for the off-street parking space requirements listed in Section 6.1.2 (f).

Multifamily apartment or condominium complexes consisting of fifty (50) units or fewer, regardless of whether said units are contained within one (1) or more buildings or phases, shall provide a minimum of 2.0 spaces per unit inclusive of visitor parking. Multifamily apartment or condominium complexes consisting of greater than fifty (50) units shall provide a minimum of 1.8 spaces per unit inclusive of visitor parking.

4.11.7 Alternative Methods of Affordability

(1) Section 4.11 mandates that affordable units shall be provided onsite. However, in certain exceptional circumstances the City Council may, at the formal written request of the developer, consider an alternative method of compliance. In granting such authorization, the City Council must find that the developer has demonstrated that building the required affordable units on-site would create a significant hardship, or that such alternate method of compliance is in the best interests of the City. A significant hardship shall be defined as being of such significance that the property cannot physically accommodate the required affordable units and/or related requirements, such as height, setbacks, or parking. To have such a request considered, the burden of proof shall be on the developers, who must make full disclosure to the City Council of all relevant information. Approval of alternate methods of compliance shall be only for the methods described below in Section 4.11.7 paragraphs (2).

Except as set forth below, affordable units provided through an alternate method shall comply in all other respects with the requirements of this Ordinance. The incentives described in Section 4.11.6 are not available to development proposals in which the requirements of this Section are met using one of the following alternative methods of compliance.

(2) The following alternative methods of compliance, in order of preference by the City, may be considered by the City Council in rare, exceptional circumstances:

- Off-site Location: With authorization by the City Council as described above, affordable units may be constructed by the developer on an alternate site. The alternate site must be suitable for residential development and must be within the City of Peabody, and must add to the City's stock of affordable housing units. Off-site units shall be comparable in quality, size and type to the marketrate units being created, and of a number no fewer than the number of units that would have otherwise been provided on-site. Affordable off-site units allowed by this Ordinance may be located in an existing structure, provided that their construction constitutes a net increase in the number of dwelling units contained in the structure. Off-site units shall be subject to the same construction schedule as otherwise required if on-site as set forth in Section 4.11.8, Paragraph (3).

- Cash Contribution: With authorization by the City Council as described above, developers may make a cash payment to the City to be used only for the purposes of providing housing affordable to very-low and low-income households as defined by this Ordinance. Prior to the issuance of a final occupancy permit for any portion of the project the contribution shall be payable in full, or a written agreement approved by a majority of the City Council must be recorded.

For ownership developments, the financial contribution for each affordable unit shall be equal to the difference between the average market sales price for the market-rate units in the subject development and the purchase price affordable to a four-person low income household as defined by this Ordinance.

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For rental units, the financial contribution for each affordable unit shall be equal to the difference between the average market rental price for the market-rate units in the subject development and the rent affordable to a four-person low-income household as defined by this Ordinance, calculated over a term of 10 years.

(3) Administration of funds. Funds donated to the City in accordance with the provisions outlined in M.G.L., Chapter 44, Section 53A, shall be restricted solely for the creation of affordable housing, located in the City of Peabody, and as defined by this ordinance. The funds shall be kept in a separate account by the City Treasurer. The City Treasurer shall deposit the funds in a bank or invest the same in securities as are legal under the law of the Commonwealth of Massachusetts. Any interest earned shall be credited to and become part of the fund. Any moneys conveyed to the City in accordance with this Section 4.11.7, Paragraphs 2 and 3, shall be expended only with approval of the majority of the City Council.

4.11.8 Enforcement

(1) Legal restrictions. Affordable units shall be rented or sold subject to deed covenants, contractual agreements, and/or other mechanisms restricting the use and occupancy, rent levels and sales prices of

such units to assure their affordability. All restrictive instruments shall be subject to review and approval by the Department of Community Development. All condominium documents and fees shall be subject to review and approval by the Department of Community Development and the City Solicitor.

(2) Timing of commitments. All contractual agreements with the City and other documents necessary to ensure compliance with this Section shall be executed prior to and as a condition of the issuance of any approval required to commence construction.

(3) Timing of construction. As a condition of the issuance of approval under this Section, the Department of Community Development may set a time schedule for the construction of both affordable and market-rate units. No Certificate of Occupancy shall be issued for any market-rate units in a development subject to the requirements of this Section until 25% of the affordable units required to be constructed have been issued a Certificate of Occupancy. No Certificate of Occupancy shall be issued to more than 50% of the market-rate units until 100% of the affordable units required to be constructed have obtained a Certificate of Occupancy.

4.11.9 Severability

In case any paragraph or part of this Section should be for any reason declared invalid or unconstitutional by any court of last resort, every other paragraph or part shall continue in full force and effect.

4.11.10 Reserved

Researcher found provisions for inclusionary zoning in the section for Planned residential developments.

Zoning Ordinance City of Peabody, Section 4.4.9 (Adopted 1978, Amended 2004)

4.4.9 Planned residential development requirements.

(a) General requirements.

(1) Any PRD parcel which is not at least five (5) acres would be required to meet all dimensional standards and other requirements of an R-1 zone.

(2) Two (2) off-street parking spaces must be provided for each dwelling unit, having dimension of each space not less than ten (10) feet in width and twenty (20) feet in length. One (1) offstreet visitor's parking space of the aforesaid dimension, shall be provided for every five (5) dwelling units. Said space(s) shall be clearly designated as visitor's parking space. Detached parking garages will be permitted if located and designed so as to compliment the building design and site layout, but shall not be constructed within the setback areas. (Ord. of 8-25-88, § 2)

(3) The site plan of a PRD shall provide an effective and unified treatment of the development possibilities of the land, making appropriate provision for the preservation of streams, stream bank, wooded cover, rough terrain and other significant natural features.

(4) Dwelling units constructed in the PRD zone must meet any special design guidelines specified by the permit granting authority.

(5) Television, radio and communication services shall be supplied by a central system with underground connection.

(6) All utilities shall be installed underground using standards promulgated by the planning, health, building and public service departments of the City of Peabody, and sewerage shall be disposed of by means of adequate connections to the municipal sewerage system.

(7) The owner or owners shall be responsible for the maintenance of common areas including but not limited to, snow plowing within the site limits and rubbish disposal. No outside burning of rubbish or inside incineration shall be permitted.

(8) Suitable recreation space with a cost of seven hundred fifty dollars (\$750.00) or one (1) percent of the cost of the dwelling unit, whichever is greater, shall be provided. Not less than thirty-three (33) percent of the total land area of the site shall remain free from structures, parking and drives, and such area shall be left either in its natural state, attractively

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landscaped, or developed for uncovered recreational facilities.

(b) Multistory/multifamily development requirements.

(1) Multistory developments can include multiple-family dwellings, multistory single family cluster developments, or public housing.

(2) The site shall have not more than eight (8) dwelling units/acre. A bonus density of not more than two (2) dwelling units/acre for a total maximum of ten (10) dwelling units/acre may be granted as a condition of the special permit provided that a minimum of ten (10) percent of the dwelling units provided at the site are assured to be sold or leased on terms affordable to individuals or households with incomes not exceeding those defined as "moderate income" by the Massachusetts Executive Office of Communities and Development or comparable governmental agency acceptable to the special permit granting authority. The assurances, referred to in the previous sentence shall be in the form of a covenant or other means acceptable to the special permit granting authority and shall be in full force and effect for a period of not less than ten (10) years from the date of the first sale, lease or transfer of said units. (Ord. of 8-25-88, § 3)

(3) The facade of multistoried buildings shall be broken up by architectural detailing such as window protrusions, balconies, overhangs.

(4) Buildings shall be sited to allow maximum amount of light to reach individual units.

(c) Single-story/single-family development requirements.

(1) Single-story developments may include detached site built houses, detached one unit modular homes assembled on site, or one story single-family cluster developments. All must have foundations and be permanently affixed.

(2) The site shall have not more than a maximum of four (4) single-story detached dwelling units/acre. A bonus density of not more than one (1) unit per acre for a total maximum of five (5) dwelling units/acre may be granted by the special permit granting authority under the same terms and conditions as specified in 4.4.9(b)(2) of this ordinance. (Ord. of 8-25-88, § 4)

(3) Each unit must have a minimum lot size of not less than ten thousand (10,000) square feet in addition to common areas and roads except in the case of bonus densities granted under 4.4.9(c)(2) in which case minimum lot size will be not less than eight thousand (8,000) square feet in addition to common area and roads. (Ord. of 8-25-88, § 5)

(4) Single-story houses shall not be entirely rectangular, but present a street facade varied by setbacks, porches, breezeways, garages, etc.

(5) Roofs shall be pitched and shingled in a manner compatible with one family dwellings.

(6) The narrow end of a rectangular house may not face the street unless a garage and/or breezeway creates a larger facade.

(d) Procedures.

(1) Pre-application Conference: A developer desiring to obtain a special permit to construct a planned residential development shall request a pre-application conference with the planning board

prior to submitting an application for the special permit. At the pre-application conference, the planning board shall familiarize the developer with the process for obtaining a special permit for a PRD and explain to him issues that shall be considered in planning the project.

(2) Submission of Definitive Plan:

a. The applicant shall submit to the special permit granting authority an application for a special permit hereunder accompanied by the original of the definitive plan.

Seventeen (17) copies of the application and definitive plan shall also be filed in the city clerk's office. A fee of one hundred dollars (\$100.00) by bank or certified check payable to the City of Peabody shall accompany the submission of the application and plan. In addition, the applicant shall pay the cost of advertisement and notification of all "parties in interest" as defined in G.L., c. 40A, §11.

b. The city clerk shall transmit a copy of the definitive plan to the planning board, conservation commission, community development authority, board of health, department of public services, police department, fire department, and city council.

c. The agencies receiving copies of the definitive plan shall submit to the planning board written recommendations on the proposed project within fifteen (15) days of filing. Failure to comment shall be deemed lack of objection.

d. Within thirty-five (35) days of the filing of the definitive plan, the planning board shall submit to the city council accompanied by the reports noted in subsection (c) a report discussing the feasibility of the project and its consistency with the purposes in section 4.4.9.

e. The special permit granting authority upon receipt of the report of the planning board but in any case within sixty-five (65) days of the filing of the definitive plan, shall hold a public hearing, notice of which shall be published in a local newspaper once in each of two (2) successive weeks with the first publication to be not less than fourteen (14) days before the date of the hearing and shall be mailed to all "parties in interest" as defined in G.L., c. 40A, §11, and to any other property owners deemed by the city council to be affected thereby. Notice shall be given by certified mail by the city clerk. The list of persons to be notified shall be prepared by the petitioner, certified by the office of assessors. The report of the planning board shall be read into the record at the public hearing.

f. The special permit granting authority shall within ninety (90) days following the public hearing certify in writing that the application is approved as submitted, approved subject to modification, or denied. Failure to take action within the said ninety (90) day period shall be deemed to be a grant of the special permit applied for subject to the requirements in subsection 7.6.3(a), (b) and (c).

g. Approval of a special permit for a planned residential development shall require a two-thirds (2/3) vote of the city council.

h. If the project is denied, the developer shall not submit substantially the same proposal for two (2) years unless (a) all but one of the members of the planning board consent to a reapplication after notice is given to parties in interest of the time and place of the proceedings to consider its consent and (b) the city council finds

specific and material changes in the conditions upon which the previous unfavorable action was based, describes such changes in its records and similarly consents.

i. Special permits granted under this section shall lapse within one year, excluding time required to pursue or await the determination of an appeal, from the grant thereof, if a substantial use has not sooner commenced or if construction has not been begun.

The city council may grant an extension for good cause, and shall grant an extension if the delay has been caused on account of the need to seek other permits.

j. No construction or reconstruction except as shown on the approved plan shall occur without a further submission of plans to the city council and the planning board and a notation to this effect shall appear upon the approved plan and upon deeds to any property within the PRD.

k. Contents of definitive plan: The application for a special permit shall be accompanied by the original copy of the definitive plan and other data required to be submitted and shall contain the following data:

i. It shall be drawn at a scale of one inch equals forty feet unless another scale is requested and found suitable by the planning or engineering department.

ii. The plan shall be prepared by a registered land surveyor, registered professional engineer, or registered architect.

iii. The scale, date, and north arrow shall be shown.

iv. The plan shall be certified by the registered land surveyor doing the boundary survey and the registered professional engineer or architect on the location of the buildings, setbacks and all other required dimensions, elevations, and measurements and shall be signed under the penalties of perjury.

v. The corner points of the lot and change of direction of lines shall be marked by stone monuments, cut in stone, stake and nail, iron pin, or other marker and shall be so marked.

vi. Lot number, metes and bounds of lots, size of lot in square feet, and width of abutting streets and ways, and names of all abutters.

vii. Easements within the lot and abutting thereon and their uses.

viii. The location of existing or proposed buildings on lot.

ix. The proposed system of drainage, including adjacent existing natural waterways.

x. A description of the abutting neighborhoods in which the parcel for the development lies, including utilities and other public facilities and the general impact of the proposed PRD upon them.

xi. A summary of environmental concerns relating to the PRD.

xii. The location of existing wetlands, water bodies, wells, 100-year floodplain elevation and other natural features.

xiii. The dimensions of the existing and proposed buildings in feet and the gross floor area.

xiv. The distance of existing and proposed buildings from the lot lines and the distance between buildings on the same lot.

xv. Per cent of the lot coverage.

xvi. Average finished grade of each building.

xvii. The elevation above average finished grade of the floor and ceiling of the lowest floor of each building.

xviii. Existing and proposed topographical lines at two-foot intervals.

xix. The use designation of each building or part thereof, and of each section of open ground, plaza or usable roof space.

xx. Number and location of parking spaces, including driveways and all areas of circulation.

xxi. Height of all buildings, above average finished grade of abutting streets.

xxii. Total square feet of all landscape and recreation areas, and depiction of materials to be used (grass, five-foot shrubs, etc.).

xxiii. Floor plans of proposed building(s).

xxiv. Exterior elevations of proposed building(s) indicating applicable materials. (Ord. of 10-11-84, § 12)

From ordinance.com, definitions in the Peabody zoning ordinance:

AFFORDABLE HOUSING : Housing which is restricted for sale, lease or rental:

(1) to households within specific income ranges as defined by this Ordinance;

(2) at specific prices not exceeding thirty (30) percent of the income of the renting household, or for which the mortgage payment (including insurance, utilities and real estate taxes) does not exceed thirty (30) percent of the income of the purchasing household, or other standards as may be established pursuant to any city, state or federal housing program designed to assist low and moderate income households and adopted by the City of Peabody.

ELIGIBLE HOUSEHOLDS : Shall mean any household whose income does not exceed eighty (80%) of the median income of households in the Boston Standard Metropolitan Statistical Area adjusted for household size and that meet the income and asset limits established by the Massachusetts Department of Housing and Community Development regulations governing the Local Initiative Program, 760 CMR 45.

**Webmasters Note: The previous definition has been added as per Ordinance No. 04-04.

What year was the inclusionary/incentive provision adopted?

2003 Joe Viola, Senior Planner, said that the inclusionary provisions were passed "probably within the last year and a half." (8/17/04) He said that it is being "updated as we speak."

Have affordable units been developed through this zoning mechanism?

Yes Joe Viola, Senior Planner, said (8/17/04) that there have been seven actual units created. They are in the process of reviewing other projects, but they are not that far along the process. At least one developer has put "buy out" money in a fund, which is an option for the developers. If they cannot provide the units on site, they can go to City Council for permission to put the money in a fund.

Pembroke

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

No

What year was the inclusionary/incentive provision adopted?

Have affordable units been developed through this zoning mechanism?

Pepperell

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

No There are no specific provisions for inclusionary zoning.

This was confirmed by Sue, Pepperell Zoning Department. (12/02/04)

However, housing created under low or moderate income housing programs are not subject to the Rate of Development limitations:

"3630. General. Building permits shall not be issued authorizing construction of more than forty (40) dwelling units in any twelve (12) month period, with the first such period beginning July 1, 1998, unless one or more of the conditions set forth below applies.

3631. The creation of dwelling units under any program or statute intended to assist the construction of low or moderate income housing, as defined in the applicable statute or regulation, including Town Bylaws.

3632. The creation of dwelling units for persons of fifty-five (55) years and older through a properly executed and recorded deed restriction running with the land.

3633. The creation of an open space residential development where the overall density is reduced by twenty-five percent (25%) or greater over the minimum lot area requirements, with all remaining land to be retained as permanent useable open space."

What year was the inclusionary/incentive provision adopted?

Have affordable units been developed through this zoning mechanism?

Plainville

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

No

What year was the inclusionary/incentive provision adopted?

Have affordable units been developed through this zoning mechanism?

Plymouth

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

No

What year was the inclusionary/incentive provision adopted?

Have affordable units been developed through this zoning mechanism?

Plympton

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

No

What year was the inclusionary/incentive provision adopted?

Have affordable units been developed through this zoning mechanism?

Princeton

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

No The only related provision is listed below:

Zoning Bylaws Town of Princeton SECTION III. RESIDENTIAL - AGRICULTURAL DISTRICT:
(M) Subject to the permission of the Board of Appeals, as provided in Section VIII-2(D) of the Zoning By-laws, low or moderate income housing developed under the comprehensive permit process established by Chapter 40B of the MA General Laws. (Amended May 21, 1991, Renumbered & Amended April 2, 2002)

What year was the inclusionary/incentive provision adopted?

Have affordable units been developed through this zoning mechanism?

Quincy

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

Yes Zoning Ordinance City of Quincy, Section 17.04.235 (On website: <http://www.bpcnet.com/codes/quincy/>, 8/13/04)

Section 17.04.235 Inclusionary zoning--Applicability--Requirements--Affordable housing trust committee.

A. The following inclusionary zoning provisions shall apply where a developer applies for a special permit or variance to authorize an increase in the permissible density or intensity of a particular residential use. Increases shall include an increase in gross floor area or height, a reduction or waiver of parking requirements, or a change in dimensional requirements or the addition of uses that result in an increase in density or intensity of use.

B. Applicability. The provisions of this Section 17.04.235 shall apply to any inclusionary zoning project. These provisions shall apply with respect to developments in all zoning districts of the city.

C. Requirements. A developer of an inclusionary project shall either make a housing contribution in accordance with this Section 04.235.C.(1) or create or cause to be created housing, in accordance with this Section 04.235.C.(2).

1. For any project that is in total, less than ten dwelling units no contribution shall be required.

2. Housing Creation Option. The developer of an inclusionary project required to make a housing contribution in subsection 04.235.C.(2) above may create or cause to be created affordable units for occupancy exclusively by eligible households, or donate land to be used exclusively for the development of affordable units. These units or land donations must be of equivalent benefit toward addressing the city's affordable housing need as the housing contribution otherwise required and must be of at least equal appraised value. When this option is chosen a developer shall obtain a report from the affordable housing trust committee, which report shall accompany the special permit application and shall advise the special permit granting authority as to whether the proposed housing creation conforms to the intent and purpose of this Section 17.04.235 et al. The report shall also recommend such conditions, if any, as the Trustees may find appropriate to the issuance of the special permit to assure full compliance with the intent of this Section 17.04.235. The special permit granting authority shall give due consideration to the affordable housing trust committee in granting any special permit subject to this Section 17.04.235 et al., and in its discretion may approve the developers use of the housing creation option.

3. For any developer requesting a variance or special permit, the developer shall provide ten percent of all units as affordable or create off-site affordable units equal to fifteen percent of all units in the development or contribute, in cash, an amount equal to fifty percent of the total development costs of fifteen percent of the total units developed. This cash contribution shall be not less than fifty percent of the cost of construction of one comparable unit offsite.

Before a building inspector issues the first occupancy permit for the inclusionary zoning project the developer of the inclusionary project shall deliver the affordable housing contribution to the chairperson of the city of Quincy affordable committee or their designee to be added to the affordable housing trust fund. The housing contribution shall be determined as follows:

4. Housing Contribution. The applicant shall provide a cash fee in lieu of on-site affordable housing units. As basis for determining the amount of cash fee, the city council shall use the appropriate current year edition of "Building Construction Cost Data" Published by the R. S. Means Company of Kingston, Massachusetts, or if such publication ceases to exist, an equivalent recognized construction cost publication. The city council shall calculate fifty percent of the total development cost of fifteen percent of the total units developed by using total construction cost data and, more specifically, by using the median of the upper quartile of mid-rise apartment costs. The resulting dollar value, rounded to whole dollars, shall be known as the "fee in lieu of dwelling units" and shall be paid directly to the Quincy affordable housing trust fund trustee. The full payment shall be made prior to issuance of any occupancy permit by the building inspector. All building permits related to inclusionary zoning projects should be reviewed by the director of inspectional services.

5. Any inclusionary project shall provide ten percent of the total number of dwelling units up to maximum allowed as of right as affordable units. Where the application of that formula results in a fractional dwelling unit, a fraction of one-half of a dwelling unit or more shall be considered as one affordable unit. Each affordable unit shall meet the standards established in Section 17.04.235.E.

6. For any inclusionary project where the number of affordable units shall be no less than ten percent of the total number of dwelling units in the project the affordable housing units shall be provided coincident with the development of the market rate units, but in no event shall the development of the affordable units be delayed beyond the schedule below.

Percent of Completed Market Rate Units	Minimum Percentage of Completed Affordable Units
Up to 30%	None Required
30% + 1	10%
Up to 50%	30%
Up to 75%	50%
75% + 1	70%
Up to 90%	100%

D. Standards for Construction and Occupancy of Affordable Units. Affordable units shall be generally comparable in size, number of bedrooms, and materials to dwelling units in the neighborhood or in the project in which it is located and shall be consistent with local needs for affordable housing as approved by the affordable housing trust committee. Preference shall be given to Quincy residents whenever possible i.e. Quincy housing authority resident would move into affordable rental property or a Quincy renter would purchase an affordable unit. Rental or ownership options shall mirror existing neighborhood preferences i.e. if a neighborhood consists predominately of homeownership units the affordable units created shall be homeownership units.

E. Affordable Housing Trust Committee.

1. The city shall establish an affordable housing trust committee (AHTC). The AHTC shall consist of the following eleven members:

- One member, appointed by the mayor of the city of Quincy.
- Three members, appointed by the president of the city council, from the membership of the city council.
- One member, appointed by the president of the city council, who shall be a residential developer.
- One member, appointed by the president of the city council, who shall have a background in banking.
- Four members, appointed by the mayor of the city of Quincy, from faith/community-based organizations within the city of Quincy.

f. One member, appointed by the president of the Norfolk County labor council AFL-CIO.

A chairperson, who will act as managing trustee, will be chosen from the members by committee vote. Members' terms of service will not be longer than five years. Terms of service shall be staggered. All AHTC members will, at all times, be residents of the city of Quincy.

The department of planning and community development will provide the AHTC with technical and administrative assistance. The AHTC will administer the affordable housing trust, including disbursement of all funds, units and land conveyed to the city of Quincy. The AHTC will review all proposals submitted for trust funds, units and explore new affordable housing programs.

2. The city shall establish an affordable housing trust that consists of funds and property generated by this section. Funds may be used for but will not be limited to the following uses:

a. Creation of affordable housing units through a variety of means including, but not limited to, the provision of favorable financing terms or direct write down of costs for either nonprofit or for-profit developers or to subsidize the purchase of sites, existing structures, or affordable units within a larger development.

b. Multifamily rehabilitation programs.

c. Limited equity cooperatives.

d. Condominium conversions.

(Ord. 2001-240; Ord. 2001-226; Ord. 2001-155 § 2, 3)

What year was the inclusionary/incentive provision adopted?

2001 Dennis Harrington, Director of Planning, (8/17/04) said "Inclusionary zoning has been in Quincy since 2001 but it was totally revamped in April 2004."

Have affordable units been developed through this zoning mechanism?

Yes Dennis Harrington, Director of Planning, (8/17/04) said that Nancy Callanan, the principal planner in charge of housing, has the exact statistics. He estimated that it has been triggered a half dozen times for a total of 100 units.

Randolph

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

No Letter received from Mary McNeil, Building Commissioner, on 5/17/05:

"Inclusionary/incentive Zoning. The town does not have any of these incentives."

What year was the inclusionary/incentive provision adopted?

Have affordable units been developed through this zoning mechanism?

Raynham

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

Yes The town planner explained that Raynham is considering removing the affordable housing provision because he believes it has created a dis-incentive to do cluster development. He said the provision is an administrative burden: although some developers are easy to work with, smaller developers do not have the capacity to go through the review process. The planner explained that Raynham has had a good experience with 40B (they have passed the 10% affordable housing bar). They have been proactive and worked with developers from the beginning of the design process.

Town of Raynham Zoning Bylaw (Amended 2003)

Open Space Preservation

14.5 Open Space Use and Design Standards

Affordable housing requirements: For every ten (10) lots created under the provisions of this subsection, one (1) additional lot, located within the development, shall be made in perpetuity via deed restriction at terms affordable to persons or families qualifying as low and moderate income as defined by the Department of Housing and Community Development. Such additional lot shall not count toward the calculation of the basic number of units nor shall such lot count as an incentive lot below. Such lots shall be subject to the approval of the Planning Board. (this section added at 5/21/01 A.T.M. adjourned session on 5/23/01)

What year was the inclusionary/incentive provision adopted?

2000 The Open Space Preservation amendment (including affordable housing) was passed in 2000.

Have affordable units been developed through this zoning mechanism?

No The minimum number of units needed to trigger the inclusionary zoning is ten units. The town planner explained that, as of now, there have been no developments big enough to trigger the inclusionary zoning. (10/19/04)

Reading

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

Yes From ordinance.com:

4.7. MUNICIPAL BUILDING REUSE DISTRICT

4.7.1. Uses Permitted in Municipal Building Reuse District: The Municipal Building Reuse District shall be considered as overlying other districts established by this By-Law. Any uses permitted in that portion of the districts so overlaid shall be permitted. In addition, any one and only one of the use categories specified in Section 4.7.2.1., 4.7.2.2. or 4.7.2.3. may be permitted in such an overlay district under a Municipal Building Reuse Special Permit issued pursuant to Section 4.7.3.

4.7.2. Dimensional Controls in Municipal Building Reuse District: Subject to the provisions of Section 4.7.3. buildings in a Municipal Building Reuse District previously owned or controlled by the Town of Reading and existing at the time of the issuance of a Municipal Building Reuse Special Permit may remain and may be rehabilitated and rebuilt in their then location. The dimensional controls and intensity regulations as contained elsewhere in this By-Law shall not apply to such a building and the lot on which it is situated, but changes to the size of the lot or exterior dimensions of such building shall be subject to such dimensional controls and intensity regulations as the same may be modified herein.

4.7.2.1. For any residential use, the following provisions shall apply:

a. Enlargement of existing building: The existing building may be enlarged in a manner harmonious with the external character and appearance of the building; however, any such enlargement shall not exceed a size equivalent to 25% of the gross square footage of the existing building;

b. New construction: An additional building or additional buildings which contain the same use or uses as contained in the existing building may be constructed on the site in a manner harmonious with the external character and appearance of the existing building. No such additional building may be located closer than forty feet from any portion of the existing building;

c. Perimeter Setback: No portion of any additional building or any enlargement of the existing building may be located closer than fifty feet from any boundary of the site;

d. Density: Maximum density of development on the site shall not exceed eighteen dwelling units per acre. Moreover, the aggregate gross floor area of any enlargement and any additional buildings shall not exceed the gross floor area of the existing building;

e. Height: The height of any enlargement or additional building shall not exceed that allowed in the underlying zoning district;

f. Open Space: A minimum of 30% of the area of the site exclusive of the area occupied by the existing building, the area in the required forty foot setback therefrom, and the area in the required fifty-foot perimeter setback shall be devoted to open space completely devoid of any structure, parking space, loading space, accessway, and private yards, patios, and gardens for the exclusive or principal use by residents of individual dwelling units. To the greatest extent possible such open space shall be left in its existing condition or developed so as to be appropriate in size, shape, dimension, location and character to assure its use as a park, recreation area, and visual amenity for the site and its residents. In no case shall any dimension of qualified open space be less than twenty feet;

g. Accessory Structures: No accessory structure shall be located within twenty feet Of a rear or side property line, nor within the required fifty-foot front perimeter setback;

h. Required Low- and Moderate-Income Housing: There shall be provided in perpetuity on-site or off-site in a manner acceptable to the Reading Housing Authority, a minimum of ten percent of the total units (both on- site and off-site) relative to the development which units shall be affordable to very-low-income, low-income and moderate-income families and/or elderly households as determined by the most recent calculations of the U.S. Department of Housing and Urban Development for the Boston Metropolitan Area.

4.7.2.2. For non-residential use, the following provisions shall apply:

4.9.2.1. Definitions:

The following terms shall have, for the purposes of this PUD By-Law, the meanings hereby assigned to them:

a. AFFORDABLE HOUSING : Housing units priced to be available for purchase or rental by households with annual incomes that do not exceed eighty percent (80%) of the median annual household income for the Boston Metropolitan Area as determined by the most recent calculation of the U.S. Department of Housing and Urban Development and so that the annual housing unit cost to the household does not exceed 30% of the annual gross income of the household.

There is inclusionary zoning in the PUD district overlay:

4.9.6.10. Affordable Housing: The intent of this section is to increase the supply of housing in the Town of Reading that is available to and affordable by low and moderate income households and to encourage a greater diversity of housing accommodations to meet the needs of the Town and-to develop and-maintain a satisfactory proportion of the Town's housing stock as affordable housing. Any PUD-R development shall provide within the Town of Reading, affordable housing units equal to ten percent of the total residential units in the PUD-R. For property within 300' of the municipal boundary if developed residentially, requisite affordable units shall be equal to fifteen percent of the total residential units in this area. When the percentage calculation does not result in a whole number it shall be rounded to the nearest whole number.

The following standards shall apply to assure the maximum public benefit from such affordable housing:

a. Restriction: The developer shall provide an adequate guarantee, acceptable to the CPDC, to ensure the continued availability of the affordable units in perpetuity; such guarantee may include deed restrictions, recorded deed covenants relative to equity limitation, or other acceptable forms.

b. Marketing/Selection: The marketing and household selection process as to the affordable units shall be conducted in collaboration with the Town or its designee.

c. Local Preference: To the extent to do so would not cause the affordable units not to be qualified as affordable housing pursuant to guidelines established by the Massachusetts Department of Housing and Community Development and to the extent allowed by law, preference as to affordable units shall be given initially to current Reading residents, employees of the Town of Reading, or those prospective buyers who were formerly Reading residents for ten (10) years or more. The Town shall establish an equitable procedure to implement this preference.

d. Appearance: On site affordable housing units shall have a minimum gross floor area of one thousand (1,000) square feet and an exterior appearance designed to be substantially indistinguishable from market-rate units.

e. Minimize Fees: If the affordable units are being sold as condominium units, in order to minimize the monthly condominium fees to be paid by those affordable units, the value assigned to such units and the percentage of interest in the common areas allocated to those affordable units shall recognize the affordable restrictions imposed on such affordable units, to the maximum extent allowed by MGL Chapter 183A and other applicable law.

f. Developing Units: No more than twenty-five percent (25%) of the building for the market rate residential units shall be issued for any PUD-R development until construction has commenced on one-sixth of the affordable units. No more than fifty percent (50%) of the occupancy permits for the market rate residential units shall be issued for any PUD-R development until occupancy permits are issued for one-third of the affordable. No more than eighty five percent (85%) of the occupancy permits for the market rate residential units shall be issued until occupancy permits have been issued for two thirds (2/3) of the affordable units. The CPDC may require financial assurances in an amount as determined by CPDC from the applicant for the remaining one third (1/3) of affordable units required to be provided.

g. Off-Site Units: Up to 50% of the required affordable units may be located offsite from the PUD-R location within the Town of Reading. In order to use this option, the size and types of units, unit location, and density of said units shall be approved by the CPDC as part of their approval for the related PUD-R Special Permit. As a premium for the Developer being able to place affordable units off-site, for every three affordable units the developer elects to place off-site, the Developer must provide an additional bonus affordable unit, which additional bonus unit does not count towards the ten percent of affordable units the Developer is required to provide. The placing of bonus affordable units off-site does not result in a requirement of additional bonus units.

4.10. PLANNED RESIDENTIAL DEVELOPMENT (PRD)

4.10.2.1 Definitions: The following terms shall have for the purposes of this PRD By-Law the meanings hereby assigned to them:

e. INCLUSIONARY HOUSING :

(1) Affordable Housing: Housing units available for purchase by households with annual incomes less than one-hundred percent (100%) of the median annual household income for the Boston Metropolitan Area as determined by the most recent calculation of the U.S. Department of Housing and Urban Development.

(2) Moderately Priced Housing: Housing units available for purchase by households with annual incomes between one hundred

percent (100%) and one hundred twenty-five percent (125%) of the median annual household income for the Boston Metropolitan Area as determined by the most recent calculation of the U.S. Department of Housing and Urban Development.

4.10.4.2.1. Required Inclusionary Housing: PRD-G: Any PRD-G development may provide affordable and/or moderately priced housing units as allowed in Section 4.10.4.3.1. PRD-M: Any PRD-M development shall contain or provide off-site in a manner acceptable to the Reading Housing Authority affordable housing units at a minimum equal to ten percent of its total units (both on-site and off-site).

4.10.4.2.2. Standards for On-Site Inclusionary Housing Units: Inclusionary housing units shall have a minimum gross floor area of nine-hundred (900) square feet. Inclusionary housing units shall be integrated into the PRD development and not grouped together and their exterior appearance shall be designed to be indistinguishable from the market-rate units in the same development. The developer shall provide adequate guarantee, acceptable to the CPDC, to ensure the continued availability of the inclusionary units in perpetuity; such guarantee may include deed restrictions, recorded deed covenants relative to equity limitation, or other acceptable forms. No more than eighty percent (80%) of the building permits for the market-rate units shall be issued for any PRD development until construction has commenced on all the inclusionary units in the PRD development; no more than eighty percent (80%) of the occupancy permits for the market-rate units shall be issued until all of the occupancy permits for the inclusionary units have been issued.

What year was the inclusionary/incentive provision adopted?

1987 In Appendix A of the Zoning Bylaw that the Municipal Building Reuse District was added in 1985, amended in 1989. PUD was added in 1987, amended in 1992, 2000 (Section 4.9.3.1.1.a and b), 2002. PRD in 1988, amended in 1992, 1994 (Section 4.10.2.1), 1995. PRD-M was amended in 1993.

Have affordable units been developed through this zoning mechanism?

Rehoboth

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

No Building permit annual limits exempt low-income units.

Town of Rehoboth Zoning Bylaw (2004)

"4. Units designated for low income residents of all ages and units receiving or eligible to receive state or federal subsidies, shall be exempt from this scheduling bylaw." (6.8.4 - Scheduled Development, added 1988.)

What year was the inclusionary/incentive provision adopted?

Have affordable units been developed through this zoning mechanism?

Revere

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

No The Zoning Bylaw does mention a Community Trust Fund which developers must pay into when they are granted additional density with a special permit. It is not mentioned whether the density bonus is tied to affordable housing or whether the trust funds must be spent on providing affordable housing. They are allowed to be spent on affordable housing -- "Community trust funds may also be appropriated to support affordable housing initiatives and economic development activities in accordance with the city of Revere's economic development plan."

What year was the inclusionary/incentive provision adopted?

Have affordable units been developed through this zoning mechanism?

Rockland

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

No

What year was the inclusionary/incentive provision adopted?

Have affordable units been developed through this zoning mechanism?

Rockport

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

Yes Rockport Zoning Bylaw (Amended 2002)

" VI. SPECIAL REGULATIONS
[...]
K. HOUSING BALANCE

In order to assure that new residential development being granted special consideration under the Zoning By-Law will, at minimum, meet its own share of providing for the diversity and balance of housing in Rockport, the following shall be complied with by all housing developments authorized by Special Permits.

1. At least 10% of the housing units shall be affordable to households having incomes not exceeding 80% of the then current median income for the Boston Primary Metropolitan Statistical Area, estimated by the HUD Regional Economists. (n.b. That means household income not exceeding \$36,000 in FY'89); or
2. An alternative effort approved by the Special Permit Granting Authority shall be made, determined by that authority to make no less contribution than the above toward meeting the goal of economically balanced development.
3. Continuing affordability shall be assured for at least thirty (30) years through means enforceable by the Town. "Affordable" shall mean having a house for rent, excluding utilities, not exceeding 30% of income or having a purchase price affordable at that income under then pricing prevailing underwriting guidelines, given not more than a 5% down payment.
4. The Special Permit Granting Authority, upon its approval of units as being affordable, shall notify the Massachusetts Executive Office of Communities and Development (EOCD) of that action, together with plans, and shall seek reflection of those units in EOCD determination of local housing need under Chapter 40B M.G.L."

What year was the inclusionary/incentive provision adopted?

Have affordable units been developed through this zoning mechanism?

Rowley

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

Yes Town of Rowley Zoning Bylaw

6.2 Multi-Family Dwellings

6.2.2 Density

6.2.2.2 Twenty thousand (20,000) square feet of area for the first dwelling unit, plus ten thousand (10,000) square feet of area for

each additional unit, is required, except that, for developments under section 6.2.1.1(b), the Planning Board may increase the number of units allowed, up to a maximum density of twenty thousand (20,000) square feet of area for the first unit, plus five thousand (5,000) square feet of area for each additional unit, if the Applicant proposes additional affordable housing than that required by section 6.2.4, or on-site or off-site public improvements or amenities that result in substantial benefit to the Town and which are beyond those necessary to mitigate the impacts of the proposed development. The square footage of any primary conservation areas shall not be considered in determining the number of dwelling units allowed under this section.

**Webmasters Note: The previous subsection has been amended as per an update approved at a town meeting held on 5/10/04.

6.2.4 Affordability Requirements

6.2.4.1 (fewer than 5 multifamily units) At least one (1) of the units in a development approved under section 6.2.1.1 (a) shall qualify as an affordable dwelling unit.

6.2.4.2 (5 or more multifamily units) At least ten percent (10%) of the units in a development approved under section 6.2.1.1 (b) shall qualify as affordable dwelling units. For the purposes of this calculation, a fraction of one half (1/2) or greater shall be rounded to the next higher whole number, and a fraction of less than one half (1/2) shall be rounded to the next lower whole number, but not less than the number one (1).

6.2.4.3 Affordable dwelling units shall be indistinguishable from market rate dwelling units, except for matters of interior finish, fixtures, and appliances. Where more than one affordable dwelling unit is required, such units shall be dispersed throughout the site. Affordable units shall be constructed concurrently with market rate units.

6.2.4.4 The Applicant shall submit to the Planning Board and the Board of Selectmen the deed covenants and other documentation necessary to insure that the requisite number of units will qualify as affordable dwelling units. If the documentation appears complete and adequate, the Board of Selectmen shall file an application with the DHCD for approval of the units as Local Initiative Units. A building permit may not be issued for any of the dwelling units created by the development until the DHCD notifies the Town in writing that the requisite number of units qualify as Local Initiative Units under 760 C.M.R. § 45.03.

Open Space Residential Development

6.4.7 Density Bonus

6.4.7.1 The Planning Board may authorize a density bonus in accordance with sections 6.4.8.2 and 6.4.8.3, except that the number of dwelling units awarded as a density bonus under such sections may not, in the aggregate, exceed thirty-five percent (35%) of the number of units permitted under section 6.4.7, and provided further that a density bonus may not be awarded under section 6.4.8.3 for an OSRD that would create three or more units in the Coastal Conservation District.

6.4.7.2 The Planning Board may authorize a density bonus of up to twenty percent (20%) if the Applicant proposes:

(a) on or off-site public improvements or amenities that result in substantial benefit to the Town and which are beyond those necessary to mitigate the impacts of the proposed OSRD; or

(b) townhouse dwellings constructed in a New England village style of architecture with a maximum of two bedrooms per unit.

6.4.7.3 For every one and one half (1.5) affordable dwelling units created by the OSRD, one (1) dwelling unit may be added as a density bonus, except that this density bonus may not exceed fifteen percent (15%) of the number of units permitted under section 6.4.7. The affordable dwelling units must qualify as Local Initiative Units under 760 C.M.R. § 45.03, and shall be constructed concurrently with the market rate units.

Section 2.0 - Definitions

DWELLING UNIT, AFFORDABLE : A dwelling unit that (1) is permanently restricted to occupancy by persons who qualify as low or moderate income; as those terms are defined for the area by the Commonwealth's Department of Housing and Community Development ("DHCD"), and that (2) meets the minimum criteria for inclusion into the Subsidized Housing Inventory maintained under M.G.L., Ch. 4013, § 21.

What year was the inclusionary/incentive provision adopted?

According to Cliff Pierce, Chairman of the Planning Board, (10/26/04) the inclusionary zoning program was put into place a couple of years ago (very recently).

Have affordable units been developed through this zoning mechanism?

No According to Cliff Pierce, Chairman of the Planning Board, (10/26/04) the inclusionary zoning has had no effect yet. The program was put into place very recently and there has been no multifamily built since then. The density bonus is optional for Open Space Residential Developments and no developers have felt compelled to use the inclusionary zoning yet.

Salem

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

No

What year was the inclusionary/incentive provision adopted?

Have affordable units been developed through this zoning mechanism?

Salisbury

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

Yes Town of Salisbury Zoning Bylaw

9. Bonus Provision: Subject to the approval of the Planning Board, the applicant may apply for the inclusion of up to an additional 20 percent more units in the proposed Cluster Residential Development. Such increased density shall not exceed the density equivalent of the difference between the total site area and the Applicable Land Area. The density bonus may be allowed only after a determination by the Planning Board that the applicant has provided additional unique amenities and/or features such as:

- a. the provision of open space amounting to at least 50 percent of the area;
- b. historic preservation;
- c. below market cost housing or the provision of equivalent funds for such housing on another site;
- d. the setting aside of lands for a Town approved purpose.

What year was the inclusionary/incentive provision adopted?

Have affordable units been developed through this zoning mechanism?

No While discussing the absence of inclusionary housing, Town Planner Lisa Pearson (11/30/04) said that the town has had 4 40B projects (74, 54, 68 and 65 units and a previous one that had 26 units). She said that the problem with "affordable" housing is that it still is not affordable or has too many strings attached. She said that a recent 55+ housing development (there is no mention of age restricted housing in the bylaws) limited applications to first time homebuyers. She also said that the town has been trying to provide "deep subsidies" to help Salisbury residents get into housing but that a lot of the housing is being filled by newcomers. She said that a lot of people are moving to southern N.H.

Saugus

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

No

What year was the inclusionary/incentive provision adopted?

Have affordable units been developed through this zoning mechanism?

Scituate

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

Yes There is an affordable housing component of the Planned Development District. The applicant for single family housing shall be a non-profit corporation and the applicant for multifamily housing shall be the Scituate Housing Authority.

490 Planned Development District

490.1 Purpose

The purpose of the Planned Development District (PDD) is to encourage a mix of land uses and activities, including an 18 hole golf course and a community recreation complex, a mix of residential land uses, including permanent affordable housing, and building types that complement each other; to provide for the development of these uses in a comprehensive manner instead of piecemeal to save open space that otherwise would be lost or wasted; to promote more efficient use of land while protecting natural resources such as wetlands, water bodies, ground water and native vegetation; all in conformity to the provisions of Massachusetts General Laws, Chapter 40A, Section 9 for "planned unit developments". The planning board shall be the special permit granting authority in the PD District.

490.2 Permitted Uses In PDD

In subdistricts A, B, C, D, E and F in the PD District, the following uses are permitted as of right:

A. Uses permitted as of right in Flood Plain and Watershed Protection Districts (Section 470. of this bylaw);

B. Religious and public educational uses, agricultural uses permitted as of right in Residence Districts (Section 420.); and

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C. Municipal water supply and wastewater treatment plant facilities.

D. In subdistrict B all of the uses permissible as of right in an A-2 District subject to the same conditions and procedures as therein specified. Minimum lot size, frontage, setback and width requirements for the above uses shall be in accordance with "A-2" District provisions.

490.3 Uses Permissible By Special Permit

Pursuant to Section 1200. of this bylaw, the planning board may issue a special permit for municipal, residential, recreational and commercial uses within the subdistricts, as outlined below. The subdistricts may be developed in whole or in part, together or separately, in one of several ownerships, on land publicly or privately owned, for the purpose of accommodating the following uses:

A. Subdistrict A - Affordable Residential Housing District

This Subdistrict shall consist of two sub-subdistricts:

A-1 - Affordable - Home Ownership and

A-2 - Affordable Rental Housing.

1. Goals

Any Subdistrict A residential proposal must be designed to meet the following goals:

- a. To serve the affordable housing needs of Scituate residents and their immediate families.
- b. To serve the affordable housing needs of Scituate town employees.
- c. To be compatible with the needs of disabled and elderly persons, and
- d. To provide for long-term, affordable housing for people with low income levels.

2. General Requirements

Any Subdistrict A residential proposal must meet the following requirements:

- a. Contain long-term affordability restrictions that ensure that future Scituate residents, their immediate family and Scituate town employees will continue to have their affordable housing needs met by housing constructed in Subdistrict A. Scituate residency and status of "immediate family" shall be determined by the Scituate Housing Authority.
- b. Contain a low-income formula requirement for prospective owners or tenants for proposed housing units that is consistent with the regulations promulgated by EOCD or any successor agency; and
- c. Meet a "community necessity" within the town, which requirement will be deemed to have been met provided that the town has not already met the minimum requirement set forth in Massachusetts General Laws, Chapter 40B, Section 20, et. seq., that ten percent of the town's housing stock meet affordability requirements.

3. Subdistrict A-1 Specific Requirements

- a. Any applicant shall be a nonprofit corporation.
- b. The applicant shall make its application in response to a Request For Proposals issued by the Scituate Board of Selectmen or shall make its application directly to the board of selectmen and petition that a Request For Proposals be issued.
- c. Title to the land underlying the property shall be transferred to the nonprofit corporation with the restriction that ownership shall revert to the Town of Scituate should the underlying property be put to a nonaffordable housing use, unless the affordability requirement is released as provided herein.
- d. The nonprofit corporation shall retain title to the underlying property at all times.
- e. The Town of Scituate shall be granted an appreciating mortgage by each individual unit owner which shall be junior to any other mortgage granted by the unit owner to secure the purchase price of the property (which shall include the unit, the land underlying the unit and any interest in any common areas). Said mortgage shall be for an amount that represents the difference between the original purchase price and the fair market value of the unit at the time that said mortgage is discharged. Said mortgage will become due, payable and dischargeable only upon either a release of the affordability requirement imposed by this bylaw. A certificate by the Scituate Housing Authority that a purchase price meets the affordability formula shall be dispositive.

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- f. Any sale of any affordable unit constructed pursuant to this section shall include a 99 year ground lease. Said 99 year ground lease shall be renewable upon its expiration and shall be automatically revoked upon a sale of the unit for a non-affordable purchase price. An appreciating

mortgage held by the Town of Scituate to secure a particular unit may be assumed by any subsequent buyer of the unit or the Town of Scituate shall discharge the prior existing, junior appreciating mortgage simultaneously with the subsequent buyer's granting of a new appreciating mortgage, provided that, in either case, affordability requirements are met.

g. The affordability of the purchase price of any unit constructed pursuant to this section shall be determined by the nonprofit corporation holding title to the land underlying the property in cooperation and consultation with the Scituate Housing Authority and shall be tied to the original purchase price plus an allowance for inflation as determined by the Consumer Price Index. In the event of a disagreement about affordability, the Scituate Housing Authority's judgment shall control.

h. Each affordable unit constructed and sold pursuant to this section shall pay an annual fee to the nonprofit corporation for the costs of the nonprofit administration and upkeep of common areas. Said fee and any schedule of increases shall be set by the nonprofit corporation prior to any sale or resale of a unit. Said fee and fee schedule shall receive prior approval from the Scituate Housing Authority and shall be disclosed to prospective buyers prior to sale or resale.

i. The nonprofit corporation shall ensure proper maintenance of the common areas in cooperation and consultation with a homeowners association which shall consist of at least five unit owners elected by majority vote of the unit owners on an annual basis.

j. Release Provision

In the event that the nonprofit corporation [by a three-fourths vote of its board of directors] and three-fourths of all unit owners within the nonprofit's administration determine that there is no longer a reason to require that the units remain affordable, then they may dissolve the affordability requirement, convey the land to the owners outright and turn responsibility for maintenance of common areas over entirely to the homeowners association, provided that a three-fourths vote of the Scituate Town Meeting approving the dissolution of the affordability requirement is obtained prior to any such conveyance; and provided further, that such owners shall each satisfy the outstanding appreciating mortgage held by the Town of Scituate prior to accepting title to the underlying land and prior to selling an individual unit for more than an affordable purchase price.

4. Subdistrict A-2 Specific Requirements

a. The Scituate Housing Authority may, after petitioning the Scituate Board of Selectmen for title to or for permission to develop the property designated as Subdistrict A-2, submit an application for a special permit for the development of affordable rental housing in accordance with the rules and regulations promulgated by the Executive Office of Communities and Development.

5. Building Requirements

a. Detached single-family units and/or attached townhouse units shall be permitted in subdistrict A, to a maximum number of one hundred fifty dwelling units in sub-subdistrict A-1 and a maximum of thirty dwelling units in sub-subdistrict A-2. No building shall contain more than ten units.

b. No building in subdistrict A shall exceed two stories or thirty-five feet, as measured under Section 620. of this bylaw.

c. All residential structures and accessory uses, including roads, within the subdistrict shall be set back from the boundaries of the PDD by a buffer strip of at least one hundred feet in width, to be kept in a natural or landscaped condition.

d. Parking facilities shall be provided, in a ratio of two spaces per dwelling unit, in subdistrict A.

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e. Buildings in the subdistrict shall be separated from each other by at least fifty feet.

f. The planning board shall give preference to a layout which minimizes paved areas.

g. All residential units shall be connected at the developer's expense to the public sewerage system. Sewer pipes shall be designed as to be water tight, preventing infiltration or exfiltration. In sub-subdistrict A-2 only, a private sewage disposal system approved by the board of health (and the Massachusetts Department of Environmental Protection when required) may be used until public sewerage is available, at which time connection to the public system must be made within ninety days.

h. As a condition of granting a special permit, land within subdistrict A, not devoted to the dwelling units, or to permitted accessory uses, shall be set

aside as common open space for the use of the PDD residents. The common land shall be conveyed to a corporation or trust comprising of a homeowners association whose membership includes the owners of all units contained on the parcel. The developer shall include in the deed to owners of individual units beneficial rights in the common land and shall grant a conservation restriction to the town over such land pursuant to Massachusetts General Laws Ch 134, Sections 31-33 to ensure that it is primarily kept in an open or natural state. The restriction shall further provide for maintenance of the common land in a manner which will protect and enhance the ground water, including limitation on the use of fertilizer, pesticides and herbicides, limitation on use of de-icing chemicals, proper maintenance of drainage and sewer pipes, and the like. The restriction shall be enforceable by the town through its conservation commission in any proceeding authorized by the General Laws. The developer/owner shall be responsible for the maintenance of the common land and any other facilities to be held in common until such time as an association is capable of assuming the responsibility. The planning board shall establish a standard in terms of percent of homes sold to determine when an association assumes such responsibility.

6. Maintenance Requirements

In order to ensure that the association will properly maintain the land deeded to it, the developer shall cause to be recorded at the Registry of Deeds a Declaration of Covenants and Restrictions which shall, at a minimum, provide for the following:

- a. mandatory membership in an established homeowners association as a requirement of ownership of any unit in the subdistrict;
- b. provision for maintenance assessments of all units in order to ensure that the common land and facilities are properly maintained. Failure to pay such assessment shall create a lien on the property assessed enforceable by either the homes association or the owner of any unit. The owner shall perform the duties of the home association. To the extent permitted by the conservation restriction, the common land may be used for recreational purposes including walking and bicycle paths, gardens, swimming pools, tennis courts, etc. Utility lines shall be buried in the common land.

B. Subdistrict B - Open Space, Residential and Recreation

1. The following may be located on subdistrict B: golf course, plus practice holes and country club structures primarily related to golfing including typical facilities for dining, recreation and accessory pro shops. A multi-purpose community recreation center, whether or not directly associated with the golf course or clubhouse, including facilities for both indoor and outdoor recreation activities. Detached singlefamily units and/or attached townhouse units shall be permissible by special permit in subdistrict B to a maximum of forty units. Said units shall be prorated among property owners on the basis of acreage owned as of the effective date of this PDD bylaw. The number of units permissible on land of each such owner shall be the number of acres so owned as forty bears to the total number of acres in subdistrict B, exclusive of land owned by the Town of Scituate. Issuance of such special permit shall be subject to all the provisions governing residential uses in subdistrict A as provided in Section 490.3.A.(5) (a) through (h) above. The board shall adhere to all

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the requirements of District F (Flood Plain and Watershed Protection) and District G (Flood Insurance) insofar as applicable.

2. No building in subdistrict B shall exceed the height requirements as specified under Section 620. of this bylaw.

3. Parking facilities shall be provided as required in Section 760 (parking), and as follows: Golf Course: one and six-tenths (1.6) spaces for every acre of land in the property.

4. The planning board shall require adequate safeguards for layout of the golf course and pedestrian crossing of roads.

5. The planning board shall prohibit use of de-icing chemicals in the parking area.

6. The country club and recreational center structures shall be connected, at the developer's expense, into the public sewerage system. Alternatively, a private sewage disposal system approved by the board of health (and the Massachusetts Department of Environmental Protection when required) may be used until public sewage is available, at which time connection to the public system must be made within ninety days.

7. If any land in subdistrict B is to be transferred to private ownership, and as a condition of granting a special permit at or before transfer of the title to subdistrict B, a conservation restriction shall be placed upon the areas thereof to be developed for golf course use as permitted under Massachusetts General Laws, Chapter 184, Section 31. Such conservation restriction shall run with the land in perpetuity and shall ensure that it will be devoted to golf course or other open space use.

The restrictions shall further contain design and management restrictions, including proximity to the Pond, contour elevations to be preserved, use of fertilizers, herbicides and pesticides, and any other conditions necessary or convenient to protection of the environment, especially the public well and recharge area.

8. As a condition of granting a special permit for residential use in subdistrict B, the board shall require that the comprehensive development purposes of the PDD Bylaw shall be secured by the submission and approval of a plan showing the location of the maximum number of the dwelling units which may be authorized upon the land of the permittee, according to the pro-rata formula set forth above. In the event the permittee was not a record owner of land in subdistrict B as of the effective date of the PDD Bylaw, said plan shall show the location of all dwelling units permissible on all land of the permittee's predecessor in title being such record owner as of said effective date. As a further condition of said special permit, the board shall require the delivery of a conservation restriction as provided in Massachusetts General Laws, Chapter 184, Sections 31-33. The conservation restriction shall run to the Town of Scituate in perpetuity and shall be enforceable by the town through its conservation commission. The restriction shall describe all the land of the permittee or the permittee's said predecessor in title except those lots identified on said plan as dwelling locations. The restriction shall be in a form and upon terms acceptable to the board and shall prohibit the use of said land for any purpose except open space, recreation, and golf course purposes as provided in 490.3.

9. Removal of fill or other natural materials from the PDD may be conducted only after the granting of a special permit by the planning board. Such removal must be clearly associated with a development project permitted by this section, and must be ancillary thereto.

C. Subdistrict C - Conservation

1. Uses in Subdistrict C shall be restricted to those otherwise allowed or permitted in Section 460 (Saltmarsh and Tideland Conservation Districts). Additionally, the following uses may be allowed by special permit after review and comment by the conservation commission:

- a. Boat launching facilities and associated vehicle parking facilities.
- b. Other uses similar in function and design to those in Section 460, providing that all such uses are in conformance with Section 490.1 (Purpose).

2. Section 460.2 notwithstanding the planning board shall be the Special Permit Granting Authority in PDD Subdistrict C.

D. Subdistrict D - Water Resources

After due consideration of the recommendations of the Massachusetts Department of Environmental Protection, and subject to planning board approval, public recreation activities may be located on this parcel. The planning board shall ensure by permit considerations that such activities will not harm the quality or quantity of the water supply from the public well in the subdistrict.

E. Subdistrict E - Wastewater Treatment

Municipal wastewater treatment facilities may be located in Subdistrict E.

F. Subdistrict F - Marine and Residential

1. The following uses may be allowed only by a special permit granted by the planning board pursuant to the provisions of Section 1200 of this bylaw and subject to the conditions herein specified:

- a. Any of the uses permissible either as of right or by special permit in a 'C' District (Commercial) subject to the same conditions as therein specified.
 - b. Detached single-family units and/or attached townhouse units to a maximum of one unit per ten thousand square feet of lot area plus a bonus of one unit for each one hundred linear feet of a ten foot wide permanent public pedestrian easement lying between the twelve-foot mean-low-water (MLW) contour and the Flood Plain and Watershed Protection District line (with provision for access from the Driftway and the adjacent dwelling units); plus an additional bonus of one unit per three hundred square feet of minipark to which the public has access [not to exceed seven units], the number of parks not to exceed two, one of which shall be at the end of the access easement furthest from the Driftway, said easements to be maintained by the owner or owners of the dwelling units. Any acreage dedicated to a use other than housing or lying within the Flood Plain and Watershed Protection District shall be excluded from the calculation of the basic number of dwelling units [one for every ten thousand square feet] permitted but shall be used in computing bonus units as set forth above. Any easement qualifying for a housing bonus must be adjacent to land qualifying for the basic housing unit calculation.
2. No building shall exceed two stories or thirty-five feet in height as measured under Section 620. of this bylaw.
 3. Parking facilities for dwelling units shall be provided in a ratio of two spaces per unit.
 4. Buildings shall be separated from each other by a distance of no less than the height of the taller of the two adjacent buildings, said height to be measured in accordance with Section 620. of this bylaw.
 5. All new structures shall be connected at the developer's expense into the public sewerage system.
 6. As a condition of granting a special permit, residential land including land used to qualify for a

bonus, not devoted to the dwelling units, or permitted accessory uses, shall be set aside as common open space. The common land shall be conveyed to a corporation or trust comprising a homeowners association whose membership includes the owners of all units contained on the parcel. The developer shall include in the deed to owners of individual units beneficial rights in the common land and shall grant a conservation restriction to the town over such land pursuant to Massachusetts General Laws, Chapter 184, Sections 31-33 to ensure that it is primarily kept in an open or natural state. The restriction shall further provide for maintenance of the common land in a manner which will ensure its suitability for its functions, appearance, cleanliness, proper maintenance of drainage and sewer pipes, and the like.

What year was the inclusionary/incentive provision adopted?

Have affordable units been developed through this zoning mechanism?

Yes Answer according to survey received from Scituate on 3/21/05.

Seekonk

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

No

What year was the inclusionary/incentive provision adopted?

Have affordable units been developed through this zoning mechanism?

Sharon

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

Yes Density bonus for affordable units under CSD zoning:

4360 - CONSERVATION SUBDIVISION DESIGN (CSD)

4367 BASIC MAXIMUM NUMBER OF LOTS, UNITS, AND BEDROOMS

4 For every two (2) units of each type of residence classified as below market residences, with the determination of below market value made according to Executive Order 418 or any superceding order or legislation, one (1) additional unit of the same type may be added as a density bonus This density bonus shall not exceed ten (10%) percent of the basic maximum number,

The town does have a section on establishing inclusionary zoning as part of its May 2004 Community Development Plan Draft.

Town of Sharon Community Development Plan (Draft), May 2004, p. 51-52.

"8) Modify zoning bylaws to encourage housing diversity in type and in cost. In order to be successful in diversifying the type and cost of housing in Sharon, the Town must provide zoning that facilitates development of this kind of housing by avoiding special permit processes and providing incentives where necessary. With by-right zoning, the Town will continue to have oversight in design and function through the site plan review process.

C. Establish inclusionary/incentive zoning for subdivisions. Inclusionary zoning requires a developer to provide a certain percentage of affordable units within a development. Incentive zoning provides a benefit – typically a density bonus – in return for providing affordable units. In order to achieve more affordable units, the Town needs to make the development of affordable housing economically feasible for developers who might otherwise prefer a 40B application. The correct threshold number of units must also be considered. For example, if inclusionary zoning applies to all developments of 10 or more units but the incentives are insufficient, developers may prefer to build 9 bigger and more expensive houses – and recent experience

indicates that they will have little trouble finding buyers. For small subdivisions, an inclusionary zoning by-law should also provide for the possibility of a payment to an Affordable Housing Trust in lieu of providing affordable units. (See below.) Particularly because most Sharon subdivisions are small, it is important that the Town evaluate the market and developer behavior when setting threshold levels, density bonuses, and in-lieu payments to an affordable housing trust. Inclusionary zoning might be incorporated into the current CSD by-law."

What year was the inclusionary/incentive provision adopted?

Have affordable units been developed through this zoning mechanism?

Sherborn

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

Yes The Town of Sherborn Zoning Bylaws, Section 5.7 Residence EA District - Multi-dwelling Projects (Added 1991) discusses affordable housing:

"5.7.1 Purposes

The purposes of the Residence EA district are to provide for (i) the demonstrated housing needs of the elderly, (ii) the demonstrated need for affordable housing for individuals with Low and Moderate income without regard to age, (iii) the public health by making provision for utilization of leaching and septic capacity for off-site municipal uses, (iv) to allow greater flexibility in land use planning for the development of tracts of land in terms of density, presentation of open spaces, utilization of natural features, provision of municipal services and provision of a variety of housing types, to ensure that site development plans will be presented to the Town Meeting in connection with a proposal to rezone a tract of land to Residence EA District and to enable the Planning Board to require adherence to such site development plans in the granting of a Special Permit as hereinafter described."

5.7 Residence EA District - Multi-dwelling Projects (Added 1991)

5.7.1 Purposes

The purposes of the Residence EA district are to provide for

(i) the demonstrated housing needs of the elderly,

(ii) the demonstrated need for affordable housing for individuals with Low and Moderate income without regard to age,

(iii) the public health by making provision for utilization of leaching and septic capacity for off-site municipal uses,

(iv) to allow greater flexibility in land use planning for the development of tracts of land in terms of density, presentation of open spaces, utilization of natural features, provision of municipal services and provision of a variety of housing types, to ensure that site development plans will be presented to the Town Meeting in connection with a proposal to rezone a tract of land to Residence EA District and to enable the Planning Board to require adherence to such site development plans in the granting of a Special Permit as hereinafter described.

5.7.2 Land Use

Notwithstanding anything in this By-Law to the contrary, the Residence EA District may be utilized for elderly housing projects as described in Section 5.6 of this By-Law, and/or for affordable housing for Low and Moderate Income Units as the same is defined in 760 CMR 45.02 (as the same may be amended from time to time), and/or leaching or septic facilities for municipally owned buildings located outside of the lot or District.

5.7.3 Procedural Requirements and Limitations

Sections 5.6.2, 5.6.3, 5.6.4, 5.6.5, 5.6.6, 5.6.7 and 5.6.8 of the Zoning By-Laws, relating to the procedures applicable in the Residence M District shall apply to Residence EA District as if fully set forth herein with all references therein to "Residence M District" being replaced with "Residence EA District", EXCEPT AS FOLLOWS:

a) Section 5.6.5(c) ("Building Occupancy") shall be incorporated by reference in this Section 5.7.3 with the addition of the following to the end of the sentence "or persons eligible for Low or Moderate Income Units as defined in 760 CMR 45.02 (as the same may be

amended from time to time)."

b) In Section 5.6.5(d), the reference to "two bedrooms" shall not apply to Residence EA District and instead the limitation shall be "not more than three bedrooms in any one dwelling unit". In the case of multistory buildings containing single level dwelling units (flats) which require an elevator to comply with ADA and handicapped access requirements, the Planning Board may waive the 8 unit maximum for each building if they find the building is otherwise harmonious and appropriate for the particular location and consistent with the architectural traditions of the Town.

**Webmasters Note: The previous section 5.7.3 (b) has been amended as per Case No. 1574 from annual town meeting 4/24/01.

c) Section 5.6.6 ("Special Permit Requirements") shall apply to Low and Moderate Income Units, but no approvals other than for the use of the site and other than those normally associated with septic/leaching systems shall be required for use of the Residence EA District for municipal building septic/leaching facilities shall be required.

5.7.4 Additional Requirements

In addition to the foregoing, Low and Moderate Income Units shall meet the following additional requirements:

a) Such housing must be either Subsidized Housing Units as defined in Chapter 40B of the General Laws of the Commonwealth or Local Initiative Units as defined in 760 CMR 45.03 (as the same may be amended from time to time), or municipally owned and operated affordable housing operated on the basis of substantial similarity with the goals and policies of Local Initiative Program as defined in 760 CMR 45.00.

b) For Local Initiative Units, the following shall apply:

i) the units are to be "Low and Moderate Income Units" as defined in 760 CMR 45.02 (as the same may be amended from time to time);

ii) the project is not developed with, or is not proposed to be developed with, a comprehensive permit within the meaning of Chapter 40B, Sections 20 - 23 of the General Laws;

iii) the project is subject to Use Restrictions which, as a result of the Special Permit provided by this Section, are a condition for the granting of the Special Permit: Use Restriction shall mean a contract, deed restriction, condition of Special Permit provided by this Section 5.7 or other legal instrument as may be required by the Special Permit Granting Authority and as may be approved by the Department of Community Affairs within the Executive Office of Communities and Development (which Agency has been established pursuant to Chapters 23B and 6A of the General Laws of the Commonwealth), which Use Restriction restricts occupancy of Low and Moderate Income Units to persons with qualified incomes for a determinate period of time.

iv) the initial period of such Use Restrictions is as long as the unit is occupied, but in no event less than five years; and

v) the owner/developer of the units agrees to be subject to equal housing opportunity guidelines established by the Department of Community Affairs.

vi) After issuance of any Special Permit pursuant to this Section 5.7, the Board of Selectmen shall make application to the Department of Community Affairs for certification that the unit so permitted is a "Local Initiative Unit" to count towards the Town's statutory obligations under Chapter 40B of the General Laws of the Commonwealth, all in accordance with the application procedures set forth in 760 CMR 45.00 ("Local Initiative Program"). (added 1991)

What year was the inclusionary/incentive provision adopted?

1991 The Town of Sherborn Zoning Bylaws, Section 5.7 Residence EA District - Multi-dwelling Projects (Added 1991)

Have affordable units been developed through this zoning mechanism?

Yes According to Gino Carlucci, at the Sherborn Zoning Board, (6/21/04) the following affordable housing units have been developed under the multi-dwelling project zoning:

- 24 unit rental facility
- 17 unit condo development, with 10 affordable units.
- 24 unit condo, while not 'affordable', is for persons 55 and over.

Shirley

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

No In Shirley, the zoning bylaw contains exemptions to the building cap for age-restricted (55+) housing and affordable units.

Section 2.9.4 of the Shirley Zoning Bylaw reads:

"2.9.4 Exemptions

The provisions of this Section shall not apply to, nor limit in any way, the granting of building permits or occupancy permits required for enlargements, restoration, or reconstruction of existing dwellings existing on lots as of the date of passage of this bylaw.

A. Dwelling units for low and/or moderate income families or individuals, where all of the following conditions are met:

1. Occupancy of the units is restricted to households qualifying under the Local Initiative Program as administered under the Massachusetts Department of Housing and Community Development.

2. The affordable units are subject to a properly executed and recorded deed restriction running with the land which shall limit each succeeding resale price to an increase of ten percent (10%), plus any increase in the consumer price index, plus cost of any improvements certified by the building inspector.

B. Dwelling units for senior residents, where occupancy of the units is restricted to senior persons through a properly executed and recorded deed restriction running with the land. For purposes of this Section, "senior" shall mean persons over the age of fifty-five (55).

C. Development projects which voluntarily agree to a minimum of 25% permanent reduction in buildable lots permitted under an approved definitive subdivision plan. Such developer shall be eligible for a maximum of five (5) exempt building permits per year within the said subdivision.

D. Person or entity is entitled to one permit, on only one lot, per year, on a lot the person or entity owns at the time of the acceptance of this By-law.

E. Beginning on September 12, 2000 through December 31, 2000, no more than fifteen (15) building permits may be granted under the provisions of this bylaw."

The Town of Shirley Master Plan 2004 recommends adoption of Inclusionary Zoning Bylaw: INCLUSIONARY ZONING Adopt an Inclusionary Zoning Bylaw, as follows:

- Require all developments of six or more units to provide affordable dwelling units that qualify for listing on the Subsidized Housing Inventory.
- Establish a base inclusionary requirement, e.g., 10% of all dwelling units in any project subject to the bylaw.
- Offer developers a menu of choices to comply, subject to approval by the Planning Board:
 - Include units in the development
 - Provide equivalent units in another location in Shirley
 - Pay a fee in lieu of creating new units, the fee to be equal to the difference between an affordable purchase price as defined by DHCD's Local Initiative Program (LIP) and the median single-family home or condominium sale price for the most recent fiscal year, as determined by the Board of Assessors.
 - Donate to the town a parcel of land with equivalent development capacity, restricted for affordable housing use.
 - Provide a density bonus by special permit to encourage additional affordable units the Residential R-2 and R-3 Districts.
- Condition the resale of occupancy permits on the town's receipt of affordable unit documentation. Affordable Housing Trust Fund In conjunction with the Inclusionary Bylaw, establish a permanent Affordable Housing Trust fund by special act of the legislature for all revenue generated by the bylaw.
- Assign administrative responsibility for the trust fund to the Board of Selectmen, whose duties should include preparing an annual allocation plan for the expenditure of trust fund revenue, in consultation with the Planning Board.
- Place authority for approving the annual allocation plan with Town Meeting.
- Limit the use of trust fund revenue to the production of dwelling units that qualify for listing on the Chapter 40B Subsidized Housing Inventory as Local Initiative Program Units. "Production" should be defined to include new unit creation, preservation of existing affordable units, reuse and conversion of existing structures, and affordable housing restrictions placed on existing dwelling units.

What year was the inclusionary/incentive provision adopted?

Have affordable units been developed through this zoning mechanism?

Shrewsbury

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

Yes Town of Shrewsbury Zoning Bylaw (Adopted 1967, Amended 2004)

SECTION VII - DEVELOPMENT OF SITES AND LOCATION OF BUILDINGS AND STRUCTURES

K. Density Bonus Incentive for Affordable Housing (amended 5/28/1991)

1. Purpose: It is the intent of this section to lower the cost of family home ownership for people who live or work in Shrewsbury who would otherwise be unable to purchase their own home at prevailing market rates. In order to encourage the production of more affordable units by the private sector, the Planning Board may grant a special permit to allow an increase in density above that permitted as-of-right in the zoning district where the property is located. Alternative density and dimensional standards are specified in order to make the higher density possible, but in return, the development must provide for preservation of open space in order to reduce the potential impacts on the surrounding neighborhood.

2. Districts: Permitted Affordable housing developments are permitted, upon grant of a special permit by the Planning Board, in Rural A and B and Residence A districts.

3. Density Bonus: The Planning Board may authorize a greater number of single family dwelling units than that otherwise permitted as-of-right by the zoning bylaw, but in no case shall the maximum density increase be more than 15 percent (15%) of that allowed by a Cluster Development subdivision. The fifteen percent (15%) additional units, but not less than five, shall be affordable units as herein defined. If the calculation of the percentage of affordable housing results in a fractional unit of one-half or greater, the requirement shall be the next whole number.

4. Affordable Units Defined: Affordable housing units are those which may be purchased by households earning between eighty percent (80%) and one hundred twenty percent (120%) of the median income for the Worcester Metropolitan Statistical Area (MSA) as calculated by the U.S. Department of Housing and Urban Development (HUD), or any successor agency, and shall be adjusted for family size. The Shrewsbury Housing Authority shall certify whether a proposed purchaser falls within the income guidelines established by this section by using standard lending practices prevailing at the time of application.

5. Submission Requirements:

a. Pre-application Review: to promote better communication and to avoid misunderstanding, the applicant shall submit two substantially different development plans meeting the requirement of the Planning Board's Subdivision Regulations for Preliminary Plans. The purpose of this procedure is to enable the Planning Board to compare a conventional subdivision with an Affordable Housing Development. The Planning Board shall review these plans, and advise the applicant within forty-five days of submission of its preference for use of the land.

1. One plan shall show a conventional or grid-type subdivision of individual lots meeting the dimensional requirements of the Zoning Bylaw. The Planning Board shall have the right to eliminate any lot on the Preliminary Plan which it believes is un-buildable due to physical constraints or legal easements/restrictions which prohibit building of residences. This Plan shall determine the number of dwelling units that may be built as-of-right on the property.

2. The second plan shall depict the layout of the affordable development and shall clearly show the number, location, and percentage of affordable and market rate units. This plan shall show no more than fifteen (15%) of that shown on the Cluster Development plan.

b. Application: each application for a special permit for an Affordable Housing Development shall be accompanied by a Definitive Subdivision Plan meeting the requirements of the Planning Board's Subdivision Regulations. In addition to the information required in Section VII. J., 4 for a Cluster Development, the applicant shall provide the following: (5/22/2002)

1. Information regarding the number, size and type of units to be provided for both the affordable and market rate units.

2. Typical architectural drawings of both affordable and market rate units proposed to be built on the site.

3. The price levels at which the affordable units will be sold and documentation that such price levels are affordable to eligible households as defined in Section 4 above. The price levels for the affordable units approved by the Planning Board may be increased by the percentage increase in the Boston Area Consumer Price Index, from the date of approval of the special permit to the date the Housing Authority is notified by the developer that the affordable units are available for sale. See Section 12.b.

4. A schedule showing the construction of the affordable units in relation to the market rate units.

c. The procedures for acting on the special permit application shall be those listed in Section VII. J., 4.b. and c. for a Cluster Development.

6. Dimensional Regulations:

The purpose of the following dimensional regulations is to allow an appropriate increase in density as an incentive for affordable housing, but not so great as to cause an undue impact on, or conflict with, the surrounding neighborhood. Lot lines and yard setbacks shall be shown on the plan whether or not it is intended that lots be created and sold to the owners of the individual units.

a. The minimum tract size shall be ten (10) acres, and not more than twenty-five percent (25%) of the total area of the tract shall contain wetlands, floodplains, or land under water.

b. The following table of dimensional regulations shall govern the layout of lots and buildings in the development. The Planning Board may waive these standards for individual structures if such a waiver will result in better design or greater preservation of natural features.

Single Family / Detached Zero Lot Line (1)

Minimum Area 10,000 s.f. / 10,000 s.f.

Minimum Frontage 75 / 65

Minimum Front Yard 25 / 25

Minimum Side Yard (2) 10 / 10

Minimum Rear Yard 30 / 30

Maximum Height 2-1/2 st. / 2-1/2 st.

(1) A single family detached dwelling placed on a side lot line with no side yard along that lot line.

(2) Not applicable to the side of a zero lot line dwelling sited on a lot line.

c. The maximum amount of impervious coverage for the entire development shall not exceed twenty five percent (25%).

d. An open space buffer of seventy five feet (75') shall be preserved along all boundaries of the site. Retained natural woodland shall be preferred landscaping, but other landscaping may be approved provided suitable indigenous trees and shrubs are used for screening. Such lands may be maintained as common land or as private open space subject to a suitable deed restriction. On sites where insufficient land is available for a landscaped buffer, fences may be substituted provided the material selected is compatible with the facing of the buildings.

e. Zero lot line units are prohibited from sharing a common side lot line. Zero lot line units must be sited on alternate side lot lines.

7. Open Space Criteria, Ownership and Management:

The Definitive Plan shall adhere to the requirements for Open Space Criteria, Ownership and Management contained in Section VII. J., 8. for Cluster Developments.

8. Design Guidelines:

The Definitive Plan shall adhere to the requirements for Open Space Criteria, Ownership and Management contained in Section VII. J., 8. for Cluster Developments.

a. In order to lower the cost of housing, affordable units may have smaller area, fewer bedrooms, and fewer amenities than market rate units and should be dispersed throughout the development.

b. The proposed development shall be designed to retain and reflect certain characteristics of the neighborhood in which it is located. An architectural theme shall be carried out by use of common building materials, color, exterior detailing, bulk and/or roof lines. Rigidity in design shall be avoided by variations in building location, landscaping, planting and building coverage.

9. General Requirements:

a. The entire development shall be served by Town water and sewer systems.

b. The construction of all ways, interior drives, and utilities shall be in accordance with the standards specified in the Planning Board's Subdivision Regulations. The Planning Board may waive certain regulations to help lower overall development costs provided such savings are passed on to the purchasers of the affordable units, and provided that adequate access will be provided to all lots in the development by ways that will be safe and convenient for travel.

c. Where the housing is to be constructed in stages, the affordable units shall be provided in each stage in the same proportion as required for the total development unless otherwise permitted by the Planning Board.

d. Upon approval of the Special Permit by the Planning Board a note shall be inscribed on the Definitive Plan that no additional lots or dwelling units may be created unless a new Special Permit is granted by the Planning Board.

e. Affordable units shall contain two or more bedrooms and shall be suitable in type and design for family occupancy.

10. Local Preference at Time of Initial Offering:

Unless otherwise prohibited by a federal or state law or regulation, at least seventy (70) percent of the affordable units shall be offered initially to present or former residents of the Town, and to persons employed within the Town, as follows:

a. Forty (40) percent shall be initially offered to current residents who have resided in the Town for a period of three (3) years or to former residents who had resided in the Town for a period of three (3) years.

b. Thirty (30) percent shall be initially offered to persons employed within the Town.

c. Persons who both reside and work in the Town shall be counted as residents only.

d. Upon notification of the availability of the affordable units by the developer, the Housing Authority shall advertise the units to the general public and shall screen qualified purchasers through a process involving applications and interviews. Where necessary, the Housing Authority may hold a lottery to select purchasers. The developer/owner shall retain final approval in the selection of the purchasers qualified by the Housing Authority. The method of selecting purchasers shall not discriminate on the basis of age, gender, race, creed, color, national origin, ancestry, marital status, physical disability, number of children, or veterans' status.

11. Long Term Affordability:

a. In order to maintain long-term affordability, the Planning Board, as a condition of the Special Permit, shall require resale price restrictions to be incorporated into the deed conveying the property to the initial purchaser, and it shall bind all subsequent purchasers for a period of forty (40) years after the initial conveyance.

b. Subsequent resales shall be limited to a percentage of the unit's market value at the time of resale. This limitation will be determined by the percentage of market value for which the unit was originally sold. This percentage shall be recorded as part of the deed restriction.

c. The housing authority shall be given the responsibility of monitoring the resale of affordable units. Any subsequent purchasers must submit documentation of gross annual income to the Housing Authority and be declared eligible to purchase an affordable unit by reason of meeting the applicable income guidelines.

What year was the inclusionary/incentive provision adopted?

1991 Town of Shrewsbury Zoning Bylaw (Adopted 1967, Amended 2004)

SECTION VII - DEVELOPMENT OF SITES AND
LOCATION OF BUILDINGS AND STRUCTURES

K. Density Bonus Incentive for Affordable Housing (amended 5/28/1991)

Have affordable units been developed through this zoning mechanism?

No According to Eric Denoncourt, Shrewsbury Engineer/Planner, there has been no success with the inclusionary program. (10/25/04)

Somerset

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

No

What year was the inclusionary/incentive provision adopted?

Have affordable units been developed through this zoning mechanism?

Somerville

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

Yes Somerville Zoning Ordinance (Adopted 1990, as amended), Section 13 addresses inclusionary zoning. "The purpose of this Article is to promote the public welfare by:

- a) encouraging housing opportunities for people of mixed income levels;
- b) increasing the supply of housing that is available and affordable to low- and moderate- income people, with an emphasis on the type of housing currently most needed in the City -- housing for families with children and for low-income households;
- c) ensuring that such housing is affordable over the long term; and
- d) preventing the displacement of low-to-moderate income Somerville residents; and
- e) maintaining an economically integrated community; and
- f) mitigating the impacts of market-rate housing on the supply and cost of low- and moderate-income housing in that the creation of new market-rate housing:
 1. decreases the available supply of future developable land in the City of Somerville;
 2. creates upward pressure on the pricing of all housing in the City of Somerville;
 3. exclusive of the creation of low- and moderate-income housing, impedes the goal of maintaining an economically integrated community."

From ordinance.com:

ARTICLE 13: INCLUSIONARY HOUSING Section 13.1. Purpose.

The purpose of this Article is to promote the public welfare by:

- a) encouraging housing opportunities for people of mixed income levels;
- b) increasing the supply of housing that is available and affordable to low- and moderate-income people, with an emphasis on the type of housing currently most needed in the City -- housing for families with children and for low-income households;
- c) ensuring that such housing is affordable over the long term; and
- d) preventing the displacement of low-to-moderate income Somerville residents; and
- e) maintaining an economically integrated community; and
- f) mitigating the impacts of market-rate housing on the supply and cost of low- and moderate-income housing in that the creation of new market-rate housing:
 1. decreases the available supply of future developable land in the City of Somerville;
 2. creates upward pressure on the pricing of all housing in the City of Somerville;
 3. exclusive of the creation of low- and moderate-income housing, impedes the goal of maintaining an economically integrated community."

This Article provides incentive for the voluntary development of housing affordable to low-and moderate-income households Within applicable residential projects that are larger in terms of total number of dwelling units and/or density than that normally permissible by right. Developers may request approval of such development through the special permit with site plan review process set forth in Article 5 and in accordance with the provisions of this Article 13. The Special Permit Granting Authority (SPGA) shall have sole authority to review and approve such requests under the provisions of Articles 5 and 13 herein.

It is intended that affordable housing units provided under the terms herein be located on-site within the proposed housing development. Off-site location or other in-lieu means of compliance with this Article may be approved by the SPGA only in strict accordance with the provisions of this Article authorizing such alternative means.

Section 13.2. Applicability.

The provisions of this Article shall apply to all residential developments seeking special permits with site plan review to develop eight (8) or more dwelling units, whether new construction, substantial rehabilitation, Planned Unit Development, residential conversion, or adaptive reuse. Developments shall not be segmented or phased in a manner to avoid compliance with these provisions. No provisions of this Article shall substitute for any other provisions of this Ordinance.

Nothing contained in this Article shall be construed to apply to the use of land or structures for religious or educational purposes in the University District or in any other district if doing so would violate the applicable provisions of M.G.L. Chapter 40A, Section 3.

NOTE: § 13.2 was amended by Ordinance 2000-5 on September 28, 2000 and Ordinance 2000-8onMay25, 2000. Also: § 13.2 was amended by Ordinance 2002-4 on April 25, 2002.

Section 13.3. General Requirements.

NOTE: § 13.3 was amended by Ordinance 2000-5 on September 28, 2000.

13.3.1. Implementation Plan.

Those developers seeking special permits with site plan review for projects subject to compliance with this Article shall submit a full, written proposal of the methods to be used in providing affordable dwelling units that conform with all requirements herein. At the time of application for a special permit with site plan review for inclusionary housing, the applicant shall submit, for SPGA review and approval, an implementation plan in accordance with the Rules and Regulations established under Section 13.7.1., and shall include, at minimum:

- a) the methods of disposition of the affordable housing units,
- b) provisions for the selection of buyers or tenants of the affordable units,
- c) plans for income verification of tenants and/or buyers,
- d) plans for management of units, particularly with respect to maintenance and ensurance of long-term affordability,
- e) financial information or analysis necessary to satisfy the provisions of this Article, particularly Sections 13.3.3, 13.3.5 and 13.4.2,
- f) a relocation plan for tenants affected by substantial rehabilitation projects,
- g) and any additional information the Applicant desires to present that demonstrates compliance with other provisions of this Article.

The SPGA may request additional information as an aid in its review, aid may reject any application not providing the minimum implementation plan elements noted above.

13.3.2. Household Income.

Inclusionary dwelling units which will be available for rental shall be affordable to low- and moderate-income households as defined below, adjusted to applicable household size:

- a) Low-income households, defined herein as earning income up to fifty percent (50%)of the Boston Standard Metropolitan Statistical Area (SMSA) median household income; and
- b) Low moderate-income households, defined herein as earning income of fifty-one percent (51 %) to eighty percent (80%) of the Boston SMSA median household income.

Inclusionary dwelling units which will be available for purchase shall be affordable to low-moderate and moderate- income households as defined below, adjusted to applicable household size:

- a) Low moderate-income households, defined herein as earning up to eighty percent (80%)of the Boston Standard Metropolitan Statistical Area (SMSA) median household income; and
- b) Moderate income households, defined herein as earning income of eighty one (81 %)to one hundred and ten percent (110%) of the Boston SMSA median household income.

The SPGA may adopt other Federal or State income guidelines, such as those of the U.S. Department of Housing and Urban Development adjusted to applicable household size, but only after consideration of any comments offered by the Planning Board, Planning Office, and the Office of Housing and Community Development on the appropriateness of any such alternative method. The SPGA shall conduct a public hearing in accordance with its Rules and Regulations to receive comment prior to adopting another standard. In adopting any such separate standard(s), the SPGA shall cause such standard(s) to be published in a format available to the public, and shall utilize such standard consistently among all similar projects it reviews.

13.3.3. Affordability.

Housing affordability under this Article means:

I. Rental

Payment of housing and related costs for rental units shall be set at the following levels:

- a) in the case of low-income households, rental costs (including utility costs for heat, electricity, and hot-water) shall be set at a level not to exceed the then current "LOW HOME" RENTS published by HUD for its Home Investment Partnership Program at 24 CFR 92 as they may be amended from time to time. These rents are set by HUD to be affordable to families with incomes up to 50% of area

median income.

b) in the case of low moderate-income households, rental costs (including utility costs for heat, electricity, and hot water) shall be set at a level not to exceed the then current "HIGH HOME" RENTS published by HUD for its Home Investment Partnership Program at 24 CFR 92 as they may be amended from time to time. These rents are set by HUD to be affordable to families with up to 80% of area median income.

II. Homeownership:

Sale prices for inclusionary units must be set at a level which allows a family at 80% or 110% of area median income (as published by HUD and amended from time to time) to pay no more than 35% of total family income for housing costs, including mortgage principal and interest, private mortgage insurance, homeowner's insurance and real estate taxes. (PITI)

It is understood that these guidelines are to supersede those calculations currently set-forth in §13.3.3 until such time as they are again amended or revised.

The SPGA may adopt other Federal or State affordability guidelines, such as those of the U.S. Department of Housing and Urban Development adjusted to applicable household size, but only after consideration of any comments offered by the Planning Board, Planning Office, and the Office of Housing and Community Development on the appropriateness of any such alternative method. The SPGA shall conduct a public hearing in accordance with its Rules and Regulations to receive comment prior to adopting another standard. In adopting any such separate standard(s), the SPGA shall cause such standard(s) to be published in a format available to the public, and shall utilize such standard consistently among all similar projects it reviews.

13.3.4. Quantity and Distribution of Units.

Developers shall provide twelve and a half (12.5%) of the total units in the subject development as affordable housing units. Not less than fifty percent (50%) of said affordable units shall serve the lower income range households and the balance of affordable housing units shall serve the higher income range households (as defined in this article at 13.3.2). Thus, not less than six and a quarter percent (6.25%) of the total units in the development shall serve low-income households. Nothing in this Article shall preclude a developer from providing more affordable units than the minimum twelve and a half percent (12.5%).

In determining the total number of affordable units required, calculation of a fractional unit of 0.5 or more shall be regarded as a whole unit. When less than a fractional unit of 0.5 is required, the developer may satisfy his/her obligation by means of the alternative methods of compliance specified in Section 13.4.

In general, affordable units provided under terms of this Article shall be provided on-site in the subject residential development. The affordable housing units shall be intermixed with the market rate units, dispersed throughout the building(s) on the development site, and shall be comparable to market-rate units in every respect, including location, quality and character, room size, and external appearance. The bedroom distribution in the affordable units should be consistent with the purposes of this Article and should include two- (2) and three- (3) bedroom units.

Construction of off-site units or other alternative methods of compliance with the normal requirement for construction of on-site affordable units is strongly discouraged, and shall be an exception to the City's policy and intention to require construction of affordable units on the same site as the proposed market rate development. The SPGA may authorize or require that affordable housing units be provided off-site, or that an alternative method of compliance be used, consistent with Section 13.4 of this Article.

13.3.5. Disposition and SPGA Right of First Refusal/Option to Purchase.

Affordable housing units may be either for sale or for rent, consistent with the method of disposition of market-rate units. Developers may propose any method(s) of disposition of affordable units consistent with the intent and specific standards of this Article, but the SPGA alone shall have the authority to approve any proposals and may require specific methods of disposition related to its findings under special permit with site plan review.

The SPGA or its designee (the Affordable Housing Trust Fund, Somerville Housing Authority, or other entity) reserve the right of first refusal or option to purchase all "affordable" for-sale units at the point of original sale or any subsequent resale. This also applies to any subsequent sale of a rental property or units in a rental property.

A. Rental Units

Developers may rent affordable units to eligible low-and/or moderate-income tenants consistent with the provisions of Sections 13.3.2, 13.3.3 and 13.3.4 of this Article. Priority shall be given to selection of tenants from the Somerville Housing Authority (SHA) waiting lists; however, in the case of a substantial rehabilitation, current resident tenants meeting appropriate income qualifications of Section 13.3.2 shall be given priority.

Developers may also lease units to the SPGA or its designee (the Affordable Housing Trust Fund, Somerville Housing Authority, or other entity) for residential use. The lease rate shall not exceed thirty percent (30%) of the resident(s)' income, unless the unit is rented under a state or Federal rent subsidy program, in which case the maximum rent shall be that maximum allowable rent under the applicable program.

B. For-Sale Units

The SPGA may require developers to sell inclusionary affordable units to the Somerville Housing Authority (SHA) or its designee (the Affordable Housing Trust Fund or other entity) at a price per unit equivalent to that price affordable to a household with an income of eighty-five percent (85%) of the Boston SMSA median income. The SPGA/designee may resell the units to low moderate and moderate-income families, at a price affordable to each family allocating thirty-five percent (35%) of its income to housing costs, as defined in Section 13.3.3. Alternatively, the SPGA/designee may rent the units to low income families, consistent with Sections 13.3.2 and 13.3.3.

If the SPGA/Designee does not exercise its right of first refusal/option to purchase inclusionary units, the developer/owner shall submit a plan of disposition for SPGA approval, and such plan shall ensure that the required percentage of low-income affordable units will be maintained in the development and made available for sale to low moderate and moderate-income households as defined in this Ordinance NOTE: § 13.3.5.8 was amended by Ordinance 1991-1 on January 10, 1991.

13.3.6. Long-term Affordability.

Units required by and provided under the provisions of this Article shall remain affordable to the designated income group in perpetuity, or for as long as legally permissible. Sales prices, resale prices, initial rents, and rent increases for the affordable units shall be restricted by legally permissible instruments such as, but not limited to, deed covenants or restrictions, contractual agreements, or land trust arrangements to ensure long-term affordability and compliance with this Article.

The SPGA, or its designee (Office of Housing and Community Development or other entity), shall require that buyers or lessees of affordable units meet income and other certification requirements initially and then upon any subsequent resale or renewal of lease terms (at least annually), with income based on the provisions of Section 13.3.2. The SPGA or its designee may require a developer or property owner renting directly to low and low moderate-income tenants to submit an annual statement and documentation as to the rental income derived from the affordable housing units. In the longer term, a developer or owner shall be responsible for reporting compliance to the enforcement entity(-ies) established per Section 13.7.1. of this Article. The SPGA shall administer these provisions through Rules and Regulations established under Section 13.7.1. herein.

Section 13.4. Alternative Methods of Compliance.

13.4.1. Establishment and Finding of Need.

Though it is intended that affordable units be included on-site in a subject development, the SPGA may authorize or require that the provisions of this Article be met through an alternative method(s) of compliance in cases where there is establishment of a need(s) including, but not limited to:

- a) a finding that provision of on-site units is not in the best interest of the City and low/moderate-income households in particular, or
- b) a finding that provision of off-site units or some other method of compliance is desirable and in keeping with the intent of this Article and with the plans, goals and objectives of the City.
- c) those projects where the number of affordable units to be provided is calculated to include a fractional number not rounding up to the next whole number (see Section 13.3.4), in which case a cash payment shall be made for the fractional unit in accordance with Section 13.4.2. As an example, a 50 unit project would require 6.25 units (12.5% of 50), and the last 0.25 unit would require the appropriate cash payment described in Section 13.4.2.

In making its finding, the SPGA shall consider such factors as location, accessibility to schools and other services, whether off-site units would provide more appropriate family housing than on-site units would, availability of parking, proximity to public transportation, availability of usable open space, etc. NOTE: § 13.4.1 was amended by Ordinance 2000-5 on September 28, 2000.

13.4.2. Compliance.

A. Alternative Methods

The SPGA may approve compliance through one or more of the methods below or through a combination of these methods and provision of on-site units. In all cases utilizing said alternative methods, the SPGA shall find that any proposed alternative method of compliance is advantageous to the City in creating or preserving affordable housing and does not result in undue geographic concentration of affordable units.

Affordable units provided through the alternative methods below shall comply in all respects other than on-site location with the requirements of this Article.

1) Off-site location. Affordable units may be located on an alternative site(s) in Somerville suitable for housing use, preferably in the same neighborhood as the on-site development. Affordable off-site units may be located in an existing structure, provided that their construction constitutes a net increase in the number of affordable dwelling units contained in the structure. The number of off-site units shall be, at minimum, equal to that number of units otherwise required to be provided on-site. Off-site units shall be compatible in all respects with the market rate units built on-site, including quality and character, construction value, and site amenities (yards, parking, laundry facilities, etc.); however, inclusionary units should generally be designed to house three- (3) person or larger households, even if the market rate units are designed primarily to house one- and two- person households. Any units provided in an off-site development should also be compatible with the off-site neighborhood, in terms of design, to the degree practical. NOTE:

§ 13.4.2A, item 1, was amended by Ordinance 2000-5 on September 28, 2000.

2) Cash payment. Developers may make a cash payment to the SPGA or its designee. Cash payments shall be used only for purposes of providing affordable housing for low- and moderate-income persons as defined by and pursuant to this Article, with payment determined by the SPGA using the method below as a guideline.

3) Conveyance of land and/or buildings. Developers may donate to the SPGA or its designee (Affordable Housing Trust Fund or other entity) land and/or buildings suitable for housing use, preferably in the same neighborhood as the on-site development. Developers shall document fee simple title ownership of said land and/or buildings at the time of application for a special permit with site plan review for inclusionary housing development. Such land and/or buildings shall have a current appraised fair market value no less than that value determined in accordance with the method below. Donations of land and/or buildings shall be conveyed to the SPGA or its designee and shall be used only for purposes of providing housing affordable to low and moderate income persons as defined by and pursuant to this Article.

B. Calculating Dollar Value

For alternative methods (2) and (3) above, the following shall serve as guidelines for determining dollar value of any cash payment or donation of land/buildings:

1) Cash payment (or equivalent value in land/buildings) in lieu of providing less than 0.5 affordable units (see Section 13.4.1.(c)) shall be based on the formula below.

2) Cash payment (or equivalent value in land/buildings) in lieu of providing 0.5 or more affordable units shall be based on the formula below multiplied by two (2).

3) Formula

"A" multiplied by ("B" minus "C") where, "A" equals the number of affordable units not constructed, in lieu of a cash payment and/or donation of land/buildings.

"B" equals the median market sales price for comparable unit types over the preceding four quarters. This data shall be available to the public through a published source identified in the SPGA Rules and Regulations.

"C" equals the purchase price affordable to a moderate-income household with an income of sixty-five percent (65%) of the Boston area SMSA median income, consistent with the provisions of Section 13.3.3.

The above is meant to serve as a guideline. The SPGA may approve use of another accepted method of valuation, but only after consideration of any comments offered by the Planning Board, Planning Office, and the Office of Housing and Community Development on the appropriateness of any such alternative method. NOTE: § 13.4.2.8, items 1 and 2, were amended on January 10, 1991 by Ordinance 1991-1.

Section 13.5. Incentives for Provision of Additional Affordable Housing Units.

Developers providing more than twelve and a half percent (12.5%) of the total units in the development as affordable units may apply for an additional density bonus under the terms of this Article, and in accordance with the special permit with site plan review provisions of Article 5. Bonuses may be awarded on the basis of a two-to-one ratio of market rate units to affordable housing units. For every additional affordable unit provided beyond the twelve and a half percent (12.5%) required, two (2) additional market rate units may be authorized. The additional affordable units provided shall continue to be offered at the rate of not less than 50% affordable to lower income range households and the remainder affordable to moderate income range households, as stipulated in Section 13.3.4. Any bonus may be awarded only by the SPGA, and shall not exceed twenty percent (20%) of the number of units normally permissible under the lot area per dwelling unit requirements of Article 8 and Article 16 of this Ordinance.

In determining any density bonus, the SPGA shall consider relevant facts and make findings as to the following:

- a) that the affordable units provide housing to families with children;
- b) that the affordable units provide rental units;
- c) that analysis of the financial feasibility of the project demonstrates that award of bonus market-rate unit(s) will in part finance the affordable unit(s) such that there need not be full reliance on public subsidies to support rent payments for the affordable unit(s), regardless of whether such subsidies are available;
- d) that the proposed development site plan is designed in its site location, proportions, orison, materials, landscaping and other features as to provide a stable and desirable character, complimentary and integral with the site's natural features and neighborhood context;
- e) that such development is generally consistent with the purposes of the Somerville Zoning Ordinance, and the density increase or relaxation of zoning standards has no material detrimental effect on the character of the neighborhood; and
- f) that the proposed development is consistent with relevant municipal plans and objectives. NOTE: § 13.5 was amended by

Ordinance 2000-5 on September 28, 2000 and Ordinance 2000-8onMay25, 2000.

Section 13.6. Procedures.

13.6.1. General.

All developments subject to the provisions of this Article require special permit with site plan review. Applicants shall submit applications in accordance with the procedures for special permit with site plan review specified in Article 5 of this Ordinance. In reviewing applications under this Article, the SPGA may require modifications, conditions and safeguards, including documentation regarding permanent affordability and funding commitments, reasonably related to the requirements of this Article.

The Applicant(s) are strongly encouraged to meet with the Planning Director or his/her designee and the Office of Housing and Community Development's Housing Director or designee at least three (3) weeks prior to formal submission of an application, to help determine applicable informational requirements and discuss project compliance in a preliminary sense. At the time of such meeting, the applicant is encouraged to submit plans showing the number and size of the affordable units, their proposed sale prices and/or rent levels, method(s) of financing and/or subsidy, proposed mechanisms to ensure long-term affordability, proposals for alternative methods of compliance (if applicable), and such other information as the Planning Director, his/her designee, or the Office of Housing and Community Development may request as pertinent to the SPGA's review of the merits of the application. NOTE: § 13.6.1 was amended by Ordinance 2000-5 on September 28, 2000.

13.6.2. Fast-Tracking of Permit Process.

Development proposals providing affordable housing units in the following amounts shall qualify for fast-tracking of the permit process:

(a) Projects including more than twelve and a half percent (12.5%) affordable housing units, provided that all affordable units (excluding a fractional unit of less than 0.5) are on-site with the market rate development and provided the developer is not seeking an additional density bonus under the provisions of Section 13.5.

(b) Projects including twelve and a half percent (12.5%) or more low-income affordable units set forth in this Article 13, provided that all such units (excluding a fractional unit of less than 0.5) are on-site with the market rate development.

(c) Projects including fourteen percent (14%) or more affordable housing units, provided that a minimum of seven percent (7%) of the total project units shall serve low-income households as defined in this Article 13.

(d) Projects including twenty-five percent (25%) or more affordable housing units.

Fast-tracking of projects begins when the first application for special permit with site plan review is submitted. The applicant must identify the project as qualifying for and request fast-tracking at the point of this application. No project shall be allowed to request fast-tracking after the review process has begun, unless the review process begins again with a new application for the project.

Fast-tracked projects shall be subject to every legal requirement for notices and hearings, but every effort shall be made to expedite public review. The project shall be scheduled for appropriate review on the first available agenda (of the appropriate Board) after the application date which allows for proper notifications to occur. The SPGA shall adopt additional measures to streamline and expedite review of a fast-track project within its Rules and Regulations.

NOTE: § 13.6.2 was amended by Ordinance 2000-5 on September 28, 2000.

13.6.3. Fee Waiver.

In cases where a project includes fourteen percent (14%) or more affordable housing units and where a minimum of seven percent (7%) of the total project units are provided for low-income households, various permit and hearing fees may be waived at twice the percentage of affordable housing provided (e.g. 14% affordable/28% fees waived) for projects which include up to twenty-four percent (24%) affordable units. For projects which include twenty-five percent (25%) or more affordable units, one hundred percent (100%) of fees may be waived. The SPGA shall establish guidelines for administration and applicability to various fees in its adopted Rules and Regulations.

What year was the inclusionary/incentive provision adopted?

1991

Have affordable units been developed through this zoning mechanism?

Yes According to Scott Walker, City of Somerville Senior Planner, in an e-mail on 6/29/04, "You will need to call the housing department to get this question answered (x2560). Any project of 8 units or more must have 12.5% affordable units. The total number of units created since 1991 is probably on the order of 1000, but not all of these have been 8+ unit projects. However, some projects have been all affordable, but those units are not a result of the inclusionary zoning ordinance."

Southborough

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

Yes Zoning Chapter of the Town of Southborough, Massachusetts, Section 174-13.2(E):

"E. Affordable housing.

(1) Requirement for affordable units. Each development, (whether a conventional or flexible plan) authorized under this section shall provide affordable housing, evidenced through compliance with one (1) of the following:

(a) At least ten percent (10%) of the housing shall be affordable.

(b) An alternative effort approved by the Planning Board shall be made, provided that it is included as part of the submission at the public hearing and also provided that it is determined by the Board to make no less contribution than the above towards meeting the goal of providing affordable housing.

(2) Definition of "affordable." "Affordable" shall mean affordable to households having incomes not exceeding eighty percent (80%) of the then current median income for the Boston Region, as estimated by the HUD Regional Economist.

(3) Continuing affordability. Continuing affordability shall be assured for the longest period allowed by law, including provision that the period shall be extended if the town has not by then met its requirements under MGL C. 40B for a total of ten percent (10%) affordable units. In addition, if and when the restriction on affordability is removed, any increase in the value of the unit attributable to the removal of the restriction shall be paid to the town, to be used at the discretion of the Board of Selectmen after consultation with the Southborough Housing Authority.

(4) Local preference. Local preference shall be assured for the maximum number of affordable units allowable by law, consisting in order of priority:

(a) Full or part-time employees working for the Town of Southborough.

(b) Full or part-time employees working within the town for other employers or self-employed.

(c) Current and previous residents of the town.

(d) Persons with close family (parents, grandparents, children or siblings) presently living in town.

(5) State certification of units. In order to ensure that the affordable housing units will count toward the ten-percent statutory requirement under MGL C. 40B, prior to definitive approval, the applicant shall obtain from the state verification that all state requirements for certification of the units in the town's official inventory of affordable units will be met after the units are built.

(6) Appearance and location of affordable units. One (1) objective of this section is to provide the affordable units in such a manner that they are not obviously identifiable by a visitor as being affordable units from their exterior appearance or from their location or grouping on site. Accordingly, the applicant shall submit appropriate materials identifying the appearance and location of the affordable units to the Planning Board at the definitive approval stage, to ensure this objective is met.

(7) Counting fractions. Fractions of one-half (1/2) dwelling unit or less shall be rounded downward, and other fractions shall be rounded upward in determining the number of units subject to affordability limitations.

(8) Exempt areas. Development within a Critical Resource District (Section 174-8.10) shall be exempt from the requirements of this section.

F. Bonused development.

(1) Mandatory bonus. The Planning Board shall authorize an increase in lots or dwelling units of ten percent (10%) above that allowed under Subsection D(1) in return for the inclusion of ten percent (10%) affordable housing required by Subsection E, except where restricted in the Critical Resource District.

(2) Discretionary bonus. The Planning Board may also authorize up to an additional ten-percent increase based on the following criteria, unless the Board explains in its decision why unusual circumstances cause the Board to act otherwise:

(a) Middle income units. For units designed for households having incomes not exceeding one hundred forty percent (140%) of the median family income for the Boston Region, as estimated by the HUD Regional Economist:

[1] Bonus: One (1) added lot or unit for each middle income unit, provided that the following requirements are met.

[2] Continuing affordability. The units shall be assured of continuing affordability for middle income households, for not less than ten (10) years.

[3] Local preference. The provisions of Subsection (E)(4) applicable to affordable units shall also apply to middle income units.

(b) On-site preservation of critical areas. For land otherwise eligible to be credited towards lot area but not so credited and either restricted under a conservation restriction or deeded to the town, if that land is determined by the Planning Board to be of critical importance for retention in an undeveloped state such as the following:

[1] Land within two hundred (200) feet of existing major roads.

[2] Land across which there are important scenic views from publicly accessible points.

[3] Land of special habitat or ecological value and fragility.

[4] Bonus: one (1) added lot or dwelling unit for each lot which could reasonably be expected to be developed in the restricted area under a conventional plan in full conformance with zoning, subdivision regulations, and health codes. In making this determination, the Planning Board shall seek the advice of the Conservation Commission and Board of Health.

(c) Off-site preservation of critical areas. For land in Southborough not contiguous with the parcel to be developed, whether in the same ownership or not, if made part of the flexible development application and to be preserved under a conservation restriction or deeded to the town, if the Planning Board determines that the land is of critical importance for retention as provided under Subsection F(2)(b) above, and that the land being developed is not of critical importance for retention:

[1] Bonus: one (1) added dwelling unit for each dwelling unit which could reasonably be expected to have been developed on the restricted parcel under a conventional plan in full conformance with zoning, subdivision regulations and health codes.

[2] Critical resource bonus. In the case of land within the Critical Resource District proposed to be restricted, added dwelling units (which must be outside the district) shall equal double the number reasonably expected on a conventional plan for the restricted land."

What year was the inclusionary/incentive provision adopted?

1990s According to Hillary Brigandi, Admin. Assistant to Town Planner, (7/22/04), the affordable component of the Major Residential Development section was added in the 1990s. She noted that there is an update to the provision to decrease the percentage of affordable units from 10% to 8% which the Town passed in April 2004. The Town is waiting on approval from the Attorney General.

Have affordable units been developed through this zoning mechanism?

Yes According to Vera Kalias, AICP, Southborough Town Planner, (7/22/04), the affordable component of the major development section of the zoning chapter is poorly drafted and needs to be updated.

There have been 4 major residential developments which invoked the affordable component. Since there is a choice between giving the town cash or actually building the units, 3 of the 4 developments chose cash. One development included four affordable units.

Sterling

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

No

What year was the inclusionary/incentive provision adopted?

Have affordable units been developed through this zoning mechanism?

Stoneham

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

No

What year was the inclusionary/incentive provision adopted?

Have affordable units been developed through this zoning mechanism?

Stoughton

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

No

What year was the inclusionary/incentive provision adopted?

Have affordable units been developed through this zoning mechanism?

Stow

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

Yes Town of Stow Zoning Bylaw, Section 8.9 (Last Amended 2003).
"8.9 Inclusion of Affordable Housing

8.9.1 Purpose and Intent - The purpose of this Bylaw is to increase the supply of housing in the Town of Stow that is available to and affordable by low income or moderate income households who might otherwise have difficulty in finding homes in Stow, and to ensure that such housing is affordable over the long-term and provided in accordance with the requirements of Massachusetts General Law Chapter 40B and its implementing regulations, Stow Comprehensive Permit Policy, the Stow Master Plan, and other ongoing programs within the Town of Stow. It is intended that the AFFORDABLE DWELLING UNITS authorized under the provisions of this Bylaw be considered as Local Initiative Program (LIP) dwelling units in compliance with the requirements for the same as specified by the Department of Community Affairs, Massachusetts Department of Housing and Community Development (DHCD), or successor, or additional programs adopted by the Commonwealth or its agencies, and that said units count toward Stow's requirements under Massachusetts General Law Chapter 40B, Sections 20-23, as amended. Through, multi-family units, developers will be able to increase the number of DWELLING UNITS within a development versus conventional developments. The increased number of DWELLING UNITS is intended to off-set the reduced revenue from the affordable homes. In those cases where the Inclusion of Affordable Housing may conflict or be inconsistent with Section 8.5, Planned Conservation Development (PCD) or other sections of the Town of Stow Zoning Bylaw, except as otherwise expressly provided herein, the provisions of Inclusion of Affordable Housing shall be controlling.

8.9.2 Applicability

8.9.2.1. Beginning with the effective date of this Bylaw, any development or division of land subject to Massachusetts General Law Chapter 41, Sections 81-K through 81-GG, which will result in the creation of six (6) or more DWELLING UNITS, shall require a Special Permit from the Planning Board, and shall include as a condition of said permit that:

A. At least 10% of the units be priced for QUALIFIED AFFORDABLE HOUSING PURCHASERS;

B. The mix of AFFORDABLE DWELLING UNITS and market rate housing built in any one year be equivalent to the overall mix for the entire development;

C. Deed restrictions, acceptable to the Town, and established in accordance with the standards of DHCD or successor or additional programs adopted by the Commonwealth or its agencies, shall be placed on the appropriate property to ensure that AFFORDABLE DWELLING UNITS created under this section shall remain AFFORDABLE DWELLING UNITS in perpetuity or for as long a period as is allowed by law.

8.9.2.2. DWELLING UNITS shall be considered as part of a single development if located either on a single parcel or contiguous parcels of land which have been in the same ownership at any time subsequent to the date of adoption of Inclusion of Affordable Housing.

8.9.3 Inclusion of Affordable Housing Regulations - The Planning Board shall adopt and maintain a set of regulations that contains the necessary policies, procedures, and requirements to implement the provisions of this Section.

8.9.4 Provision of AFFORDABLE DWELLING UNITS - AFFORDABLE DWELLING UNITS required under Section 8.9.2.1 may be

provided in any one or combination of methods described below, subject to the approval of the Planning Board:

A. Constructed on the locus subject to the Special Permit;

B. Constructed on a locus different than the one subject to the Special Permit;

C. An applicant may offer, and the Planning Board, in concert with the Board of Selectmen may accept, donations of land in fee simple, on or off-site, that the Planning Board determines are suitable for the construction of an equivalent number of AFFORDABLE DWELLING UNITS. The Planning Board may require, prior to acceptance of land by the Town, satisfaction of the requirements of this Bylaw, that the applicant submit appraisals of the land in question, as well as other data relevant to the determination of value;

D. For fractional AFFORDABLE DWELLING UNITS, the applicant may round up to the next whole number of units or choose to pay equivalent fees-in-lieu of units (see Section 8.9.7) proportionate to the percentage of the unit required;

E. Preservation of existing DWELLING UNITS as AFFORDABLE DWELLING UNITS through the purchase of deed restrictions.

8.9.5 Provisions Applicable to AFFORDABLE DWELLING UNITS On- and Off-Site

8.9.5.1. Allowed types of AFFORDABLE DWELLING UNITS:

A. Single-family DWELLINGS;

B. Single-family DWELLINGS with ACCESSORY APARTMENTS;

C. MULTI-FAMILY DWELLINGS, which are designed to be consistent in character with the single-family DWELLINGS in the same development. Such MULTI-FAMILY DWELLINGS may be allowed provided:

i. in terms of exterior appearance, the BUILDING is compatible in design and, to the extent practicable, indistinguishable from the single-family DWELLINGS in the same development; and

ii. there shall be no more than four (4) DWELLING UNITS in any residential BUILDING; and

iii. the total number of MULTI-FAMILY DWELLINGS shall not exceed 10% of the lots in the development; and

iv. the overall length of any residential BUILDING shall not exceed 100 feet.

D. Accessory uses and structures incidental to principal uses indicated above -and approved by the Planning Board.

8.9.5.2. Siting of AFFORDABLE DWELLING UNITS. All AFFORDABLE DWELLING UNITS that are constructed on-site under this Bylaw shall be situated within the development 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. The Site Plan shall identify those lots selected for AFFORDABLE DWELLING UNITS.

8.9.5.3. Minimum Design and Construction Standards for AFFORDABLE DWELLING UNITS. AFFORDABLE DWELLING UNITS within market-rate developments shall be integrated with the rest of the development and shall be compatible to the extent practicable in exterior design and appearance with other units, to the extent that such regulation is not inconsistent with Massachusetts General Law Chapter 40, Section 3.

8.9.5.4. With the approval of the Planning Board, as an alternative to the requirements of Section 8.9.4.A, an applicant subject to the Bylaw may develop, construct or otherwise provide AFFORDABLE DWELLING UNITS equivalent to those required by Section 8.9.2.1 off-site. To the maximum extent practicable, all requirements of this Bylaw that apply to on-site provision of AFFORDABLE DWELLING UNITS shall apply to provision of off-site AFFORDABLE DWELLING UNITS. In addition, the Planning Board shall approve the location of the off-site units to be provided as an integral element of the Special Permit review and approval process.

8.9.6 Fees-in-Lieu of AFFORDABLE DWELLING UNIT Provision - As an alternative to the requirements of Section 8.9.2.1, and as allowed by law and with the approval of the Planning Board, an applicant may contribute an amount in cash equal to the costs of constructing such AFFORDABLE DWELLING UNITS, and satisfactory to the Planning Board in consultation with other relevant Town Boards, to the Town of Stow Housing Authority or its designee for the development and preservation of affordable housing, in consultation with the Planning Board and other appropriate Town Boards, in lieu of constructing and offering AFFORDABLE DWELLING UNITS within the locus of the proposed development or off-site, as set forth in Section 8.9.6.1 below.

8.9.6.1. Calculation of fees-in-lieu of units. The applicant for development subject to this Bylaw may pay fees-in-lieu of the construction. For the purposes of this Bylaw, the fees-in-lieu of the construction or provision of each AFFORDABLE DWELLING UNIT is determined to be three (3) times 80% of the median income for a household of four (4), 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)."

AFFORDABLE DWELLING UNIT - A DWELLING UNIT the value of which is determined by the Department of Housing and Community Development (DHCD) to be affordable by a low income or moderate income family and thus to be included in DHCD's Subsidized Housing Inventory of low income or moderate income housing DWELLING UNITS for the purposes of compliance with the provisions of Massachusetts General Laws Chapter 40B, §§ 20-23.

**Webmasters Note: The previous definition has been added as per Case No. 2191 from town meeting dated 6/6/02.

QUALIFIED AFFORDABLE HOUSING PURCHASER - An individual or family with household incomes that do not exceed 80% of the median income (this shall be referred to as "moderate income") or 50% of the median income (this shall be referred to as "low 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).

**Webmasters Note: The previous definition has been added as per Case No. 2191 from town meeting dated 6/6/02.

8.2 Duplex Residential Uses in a Residential District

Subject to a Special Permit by the Planning Board

8.2.1 Purposes: The duplex option is intended to achieve a broader range of housing choices within the community; to stimulate more affordable housing units through the creation of duplex development on individual LOTS within a subdivision; and to permit a developer, public agency, or developer in conjunction with a public agency, to propose duplex development in subdivisions which shall be affordable to households whose incomes meet the Town's criteria for affordable housing.

8.2.2 Dimensional Requirements - On LOTS that are proposed for subdivision, duplexes must be situated on individual LOTS which conform to the density and dimensional regulations of the Residential District. Each LOT shall require a minimum LOT size of 65,340 square feet, 43,000 square feet of which is "buildable" land. Under no circumstances will a special permit be granted for projects the construction of which is sited in whole or in part in the Water Resource Protection District. The maximum square footage of the total duplex STRUCTURE (both units combined) shall be no greater than 3,000 square feet of FLOOR AREA. In no event shall duplexes be permitted on more than 25% of the LOTS within a subdivision.

8.2.3 General Requirements - Two-family development in the Residential District may only occur within a proposed subdivision by obtaining a special permit and upon obtaining certification from the Board of Health that all waste disposal standards are met. Construction must commence within two years of obtaining the special permit and must be completed within the two years following the start, or the permit will expire.

8.2.4 Special Permit Requirements - Duplex development is subject to approval as provided in this subsection.

8.2.4.1 Application for a special permit under this Section shall be made to the Planning Board through the Town Clerk by submitting ten (10) copies of all submission material and paying the required application fee.

8.2.4.2 The application shall include the following:

1. The Special Permit Granting Authority shall specify a submission fee in its Rules and Regulations and in no case shall the fee be less than \$350.00;
2. all information required for a special permit;
3. all information required for a subdivision;
4. a legally recordable document that details the long term provisions that are required for the retention of the affordable units for affordability purposes;
5. information describing the projected ownership pattern of the proposed development once completed;
6. a property rights plan based on an instrument survey identifying parcels, if any, to be conveyed to the Town by deed or easement; and
7. a site grading plan showing proposed changes in contours and identifying landscaping materials, species of plants and sizes and specific plans for any common OPEN SPACE.

8.2.4.3 Public Hearing - The public hearing shall be held in accordance with the provisions of the Massachusetts General Laws.

8.2.4.4 Criteria of Approval - The special permit may be approved if the Special Permit Granting Authority finds that all the following conditions are met:

1. All of the criteria required for a special permit are met; and
2. There is a minimum of 10% or one DWELLING UNIT (whichever is more) and a maximum of 40% of all DWELLING UNITS within

the proposed subdivision that are affordable according to the Town's published criteria.

What year was the inclusionary/incentive provision adopted?

2003 As stated on ordinance.com, following Town of Stow Zoning Bylaw, Section 8.9.6.1 (Last Amended 2003):
"The previous section, 8.9, has been added as per an update approved at a town meeting held on 5/19/03."

Have affordable units been developed through this zoning mechanism?

No According to Richard Roggeveen, Building Inspector, (7/15/04) no affordable units have been built through this mechanism. Mr. Roggeveen stated that a couple could be coming through this year.

Sudbury

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

Yes Incentives for development of affordable units are included in the provisions for age-restricted housing.

According to the 2001 Master Plan, Sudbury has not yet adopted an inclusionary zoning bylaw despite several attempts at previous town meetings. The adoption of such a bylaw is still recommended by the Master Plan.

Sudbury has made attempts at including more affordable units in the town. The Incentive Senior Development has a provision on providing affordable units and the Accessory Apartments bylaw has one, too.

SUSTAINABLE SUDBURY
MASTER PLAN
2001
SUDBURY PLANNING BOARD
p. 76, 80.

"Other efforts to encourage diversity, such as adoption of inclusionary zoning bylaws, which require the construction of affordable housing within new subdivisions, have failed to gain Town Meeting approval."

"2 Allow incentives for inclusion of affordable housing units in singlefamily subdivisions (Inclusionary Zoning). In 1994, the Inclusionary Zoning Study Committee proposed a zoning amendment to Annual Town Meeting that would have required the construction of affordable units in all new subdivisions with more than six lots (or payment in lieu of construction to an affordable housing fund) in exchange for a density bonus to develop extra market-rate lots. The article was defeated by the Town Meeting, due to lack of public support and acceptance of the idea. Such development would have increased Sudbury's affordable housing stock at no cost to the town, on scattered sites, thus preventing concentration of units in one area. The Planning Board and other town officials should continue to study and promote this idea."

ZONING BYLAW
ARTICLE IX
2003
TOWN OF SUDBURY
MASSACHUSETTS

ARTICLE 5000. ALTERNATIVE RESIDENTIAL REGULATIONS

5500. SINGLE ACCESSORY DWELLING UNITS IN RESIDENCE DISTRICTS.

5510. Purpose. The existing development patterns of the Town have resulted in conditions which make it difficult for our parents, our children, and persons of low and moderate income to find suitable housing within the Town. The special regulations contained in this section have been enacted for the purpose of permitting the creation of a limited number of housing units suitable for occupancy by such persons, while ensuring compliance with the local planning standards and policies concerned with land use, building design, and requirements of the health, safety, convenience and general welfare of the inhabitants of the Town.

5520. Conditions and Requirements. An owner or owners of a single family dwelling in Single Residence District "A", "C" or Wayside Inn Historic Preservation Zone may apply to the Board of Appeals for a Special Permit for the creation and occupancy of a single accessory dwelling unit in a detached single family dwelling. Such application shall be

accompanied by the application fee established by the Board of Appeals. After such notice and public hearing, and after due consideration of the report of the Board of Health, (and the Historic Districts Commission, where applicable), the Board of Appeals may grant such Special Permit provided that each of the following conditions and requirements is met:

5521. Occupancy

a. Such unit shall be occupied by not more than four persons related by blood, adoption or marriage to the family owning and residing in the principal dwelling; or

b. Such unit shall be occupied by not more than two domestic employees of the family owning and residing in the principal dwelling; or

c. Such unit shall be occupied by a low or moderate income family with income not to exceed 80% of the regional median household income established in the Local Initiative Program Guideline of the Executive Office of Communities and Development (as the same may be amended from time to time).

5522. The accessory dwelling unit shall be located within the single family dwelling or its attached accessory structures in substantially the same size as they existed on the day of adoption of this section or, for single family dwellings not in existence on such day of adoption, as they have existed for five years prior to the application for such Special Permit. Such status shall be verified in the records of the Building/Inspection Department. A single family dwelling shall be deemed to comply with the requirements of this subsection if any alteration or enlargement thereof subsequent to said day of adoption or within the said five year period does not increase the floor area of said dwelling, as hereinafter defined, by more than fifty (50) square feet. For dwellings in existence on the day of adoption which have been increased in floor area by more than fifty (50) square feet subsequent to the day of adoption, no special permit hereunder may be issued until after the expiration of five years from the last such alteration or enlargement. On request of the applicant, the Board of Appeals may waive all or a portion of any applicable five year period if it finds that such waiver will further the purposes of this section.

5523. The accessory dwelling unit shall be a use incidental to the single family dwelling, shall contain no more than 1,200 square feet, and shall occupy no more than 30% of the floor area of the single family dwelling and its attached accessory structures. Floor area is defined herein as the actual heated living area and does not include unfinished basements, attics, or storage spaces.

5524. There shall be no more than one single accessory dwelling unit per building lot.

5525. The owner of the dwelling in which the single accessory dwelling unit is created shall reside in the dwelling, either in the principal dwelling unit or the accessory dwelling unit. If the owner resides in the accessory dwelling unit, occupancy of the principal dwelling unit must be by persons satisfying the relationship or income criteria herein. For the purpose of this subsection, the "owner" shall be one or more individuals who constitute a family, who hold title to the dwelling, and for whom the dwelling is the primary residence for voting purposes. If the lot on which the single accessory dwelling unit is to be located is owned by the Town of Sudbury, the owner-occupancy requirement of this subsection shall not be applicable as long as the lot and the structures thereon continue to be owned by the Town of Sudbury.

5526. Adequate provision shall be made for the disposal of sewage, waste and drainage generated by the occupancy of the single accessory dwelling unit in accordance with all requirements of the Board of Health.

5527. The creation and occupancy of the single accessory dwelling unit shall not be detrimental to the neighborhood in which the lot is located or injurious to persons or property.

5528. Exterior appearance of a dwelling with a single accessory dwelling unit - The single accessory dwelling unit shall be designed so that the appearance of the structure remains that of a single family dwelling, subject further to the following conditions and requirements:

a. All stairways to upper floors shall be enclosed within the exterior walls of the dwelling.

b. There shall be no enlargements or extensions of the dwelling in connection with a single accessory dwelling unit except for minimal additions necessary to comply with building, safety or health codes, or the enclosure of an entryway or stairway.

c. Any new exterior entrance shall be located on the side or in the rear of the dwelling.

5529. Off-Street Parking. There shall be at least two off-street parking spaces for the principal dwelling unit and at least one off-street parking for the single accessory dwelling unit. No parking spaces shall be located within the boundary of a street right of way. In no case shall parking spaces which are more than two spaces deep

be considered in computing the required parking.

5530. Special Provisions for Low or Moderate Income Units. In order to facilitate the creation of affordable housing units in Sudbury which will count toward the ten percent statutory goal (G.L. c. 40B, s. 20), all applicants for a special permit for a unit to be occupied by a low or moderate income family shall be furnished with copies of the regulations and guidelines of the Massachusetts Executive Office of Communities and Development for approval of such unit as an affordable housing unit for purposes of the statutory goal. Such regulations and guidelines shall include those of the Local Initiative Program and any other program designed to promote the creation of certifiable affordable housing units. After issuance of a Special Permit for a low or moderate income unit which is to be occupied and operated in accordance with any of such programs, the Board of Selectmen shall make application to the Department of Housing and Community Development for certification of the unit as an affordable housing unit includable in the Town's inventory of low and moderate income housing for the purposes of G.L. c. 40B. Such application may, at the discretion of the Board of Selectmen, be made prior to actual issuance of the Special Permit.

5540. Reports.

5541. In order to ensure compliance, the applicant shall obtain and submit to the Board of Appeals prior to the hearing, a written report of the Board of Health certifying that the conditions of this subsection have been met.

5542. Planning Board Report. In connection with an application for a Special Permit under this section, the applicant may consult with the Planning Board prior to the hearing and the Planning Board may submit in writing, prior to the hearing, its recommendations and report to the Board of Appeals.

5550. Number of Accessory Dwelling Units. The number of accessory dwelling units permitted under this bylaw shall not exceed five percent of the total number of single-family residences existing in the Town at the beginning of the year in which the application was filed.

5560. Duration of Special Permit.

5561. The Special Permit for an accessory dwelling unit occupied by persons related to the family owning and residing in the principal dwelling may be issued for the duration of such occupancy. Such permit shall require the filing by the owner(s) of a sworn affidavit with the Town Clerk, with a copy to the Board of Appeals, certifying such occupancy every four years consistent with the Special Permit. Such permit shall automatically terminate upon the sale, transfer, or other change in ownership of the principal dwelling unit.

5562. The Special Permit for a unit occupied by domestic help shall be issued for a period of two years. The permit shall automatically expire on the second anniversary of its issuance, unless extended for one or more additional two year periods upon the filing by the owner(s) of a sworn affidavit with the Town Clerk, with a copy to the Board of Appeals certifying occupancy consistent with the Special Permit and this subsection. Such permit shall automatically terminate upon the sale, transfer, or other change in ownership of the principal dwelling unit.

5563. The Special Permit for a unit occupied by a low or moderate income family shall be issued for a period of two years. The permit shall automatically expire on the second anniversary of its issuance unless extended for one or more additional two year periods upon the filing by the owner(s) of a sworn affidavit and income verification of the present occupants of the accessory dwelling unit with the Town Clerk, with a copy to the Board of Appeals certifying occupancy consistent with the Special Permit. The Special Permit for a low or moderate income unit which is approved as an affordable housing unit under one of the programs identified herein shall be for a period of five years, and shall be renewable in accordance with the foregoing procedure.

5570. Other Requirements.

5571. No Separate Conveyance. The ownership of the accessory dwelling unit shall not be conveyed or otherwise transferred separately from the principal dwelling.

5572. Removal of Separate Facilities. The Building Inspector may, in addition to other remedies, order removal of the separate kitchen facilities, equipment or fixtures that were made or installed to create such unit, if the unlawful use of such unit is discovered.

5573. Revocation. A Special Permit granted hereunder may be revoked by the Board of Appeals for violation of the terms thereof or occupancy of the accessory dwelling unit in violation of the Special Permit or the Zoning Bylaw.

5574. Provision of Information. The applicant for a Special Permit shall file with the Board of Appeals such plans, specifications and other information concerning the unit and its proposed use as the Board may require by general rule or request to the applicant.

5575. Except as provided herein, all requirements of Single Residence Districts apply as provided in this Zoning Bylaw.

5580. Rules and Regulations. The Board of Appeals may adopt, and from time to time amend, Rules and Regulations to implement the provisions of this subsection, and shall file

a copy of said Rules and Regulations with the Town Clerk.

5400. INCENTIVE SENIOR DEVELOPMENT.

5410. Purpose. The purposes of the Incentive Senior Development Special Permit are to provide a more affordable means of housing for a maturing population; to provide a type of housing which reflects the senior population desire to reduce residents' burdens of property maintenance; which provides a type of development which reduces demands on municipal and educational services; and to promote flexibility in land use planning in order to improve site layouts, protection of natural features and environmental values and utilization of land in harmony with neighboring properties.

5420. Applicability. The Planning Board, acting as Special Permit Granting Authority, may grant a Special Permit for construction of an Incentive Senior Development and accessory structures, in the following zoning districts: Single Residence "A", Single Residence "C", Limited Business, Village Business and Research District.

5430. Standards. The following standards shall apply to all Incentive Senior Developments:

5431. Tract Qualification. At the time of granting a special permit by the Planning Board, the property under consideration for an Incentive Senior Development shall be located on a contiguous parcel, not separated by a public or private way, with definite boundaries ascertainable from a recorded deed or recorded plan, having an area of at least 10 acres. For parcels greater than 20 acres, parcels may be separated by a private or public way.

5432. Age Qualification. An Incentive Senior Development shall constitute housing intended for persons of age fifty-five (55) or over within the meaning of M.G.L. c151B, §4, ¶6 and 42 USC §3607(b)(2)(c), and in accordance with the same, one hundred percent (100%) of the dwelling units in an Incentive Senior Development shall each be owned and occupied by at least one person fifty-five (55) years of age or older per dwelling unit, and such development shall be operated and maintained in all other respects in compliance with the requirements of said statutes and regulations promulgated pursuant thereto. In the event of the death of the qualifying owner/ occupant(s) of a unit, or foreclosure or other involuntary transfer of a unit in such a development, a two-year exemption shall be allowed for the transfer of the unit to another eligible household.

5433. Applicant Qualifications. The applicant for a Special Permit under the provisions of this section shall be the owner of the tract proposed for such Development or be authorized in writing by the owner to apply for and be issued such Special Permit, and shall establish to the satisfaction of the Planning Board that the applicant has knowledge, experience and financial resources sufficient to construct and complete the Development.

5434. Number of Dwelling Units Permitted. The maximum number of dwelling units shall be computed based on the number of buildable lots permitted under a conventional subdivision, with each lot satisfying minimum lot area, frontage and all other applicable zoning regulations, possessing suitable soils as determined by the Board of Health, and sufficient upland, buildable area to sustain a single family home. In Village Business Districts, Limited Business Districts and Research Districts, a minimum lot area of 40,000 sq. ft. and minimum frontage requirement of 180 feet shall be used to calculate each buildable lot. For the purposes of this section, minimum lot area in every district shall contain no more than 25% of land which is underwater land or wetland resource as defined in G.L. c. 131, s. 40 or in the Sudbury Wetlands Administration Bylaw. For each buildable lot calculated, a maximum of 4 units shall be permitted to be constructed.

5435. Building and Dwelling Unit Requirements. The following requirements shall apply to all buildings and dwelling units in an Incentive Senior Development:

a. Dwelling units can be attached or detached, or a combination of these types.

b. No building shall contain more than four dwelling units.

c. No dwelling unit constructed in an Incentive Senior Development shall contain more than two (2) bedrooms. No more than ten percent (10%) of the total units in an Incentive Senior Development shall have fewer than two bedrooms.

d. Accessory Buildings and Structures. Accessory buildings and structures may be permitted, including clubhouse, swimming pool, tennis courts, cabanas, storage and maintenance structures, garages, and other customary accessory structures, however, any common facilities or structures must be constructed on land owned in common by the owners of the dwelling units in the development, or by an organization or entity owned and controlled by such dwelling unit owners. Accessory buildings and structures shall be shown on the development plan, and may not be constructed within any minimum open space required herein.

e. Interrelationship of Buildings. The proposed buildings shall be related harmoniously to each other with adequate light, air, circulation, privacy and separation between buildings. Buildings shall comply with a minimum setback of twenty (20) feet from other structures in the development.

5436. Parking. Two parking spaces shall be provided for each dwelling unit (with the exception of one-bedroom units, which shall require one parking space per unit), in reasonable proximity to the dwelling, or in garages. Additional parking in proximity to any clubhouse or other facility serving residents in common, or guest parking, shall be provided in off-street parking areas, provided that no single accessory parking area shall contain more than twelve parking spaces, and all such areas shall be adequately landscaped. The Planning Board may authorize a decrease in the number of parking spaces up to 30% of the total number required. The reserved spaces shall be set aside and shall not be intended for immediate construction, but shall be properly designed as an integral part of the overall parking layout. Such spaces shall be labeled as "Reserve Parking" on the plan.

5437. Roadways. Roads and driveways within the development shall meet such width, grades, radius of curvature and construction standards as the Planning Board shall determine, based upon the standards provided in the regulations governing subdivisions, as the same may be waived or modified by the Planning Board to meet site conditions and design requirements.

5438. Other Facilities. All facilities for utility services, drainage, lighting and signage shall be in accordance with requirements established by the Planning Board, consistent with applicable provisions of the Zoning Bylaw and the regulations governing subdivisions, as the same may be waived or modified by the Planning Board to meet site conditions and design requirements.

5439. Project Maintenance. In every development there shall be an organization of the owners of the dwelling units which shall be responsible for the maintenance and repair of common elements and facilities owned by and serving the residents of the development, and the Town of Sudbury shall not be responsible therefore.

5439A. Wastewater Disposal. In every development wastewater disposal shall comply with the requirements of the Sudbury Board of Health, the Sudbury Water Resources and Wastewater Bylaws, and applicable Department of Environmental Protection regulations.

5440. Open Space. Open Space requirements shall be set forth according to the acreage of the parcel, as follows:

[Insert Table]

No development, including clearing, primary or accessory structures, parking, wastewater disposal or stormwater management, shall take place within the 100-foot buffer area of any jurisdictional wetland, unless authorized by the Conservation Commission. Upon approval of the Conservation Commission, the buffer area may be reconfigured to provide better protection of resources on the site if such reconfiguration achieves a similar goal of resource protection; however, in no event shall the total area of the 100-foot buffer be reduced without compensation in an equal amount elsewhere on the site.

The open space areas shall be selected to maximize the value of wildlife habitat, shall be contiguous to the extent required to preserve significant habitat, and shall be configured to minimize the perimeter to surface area ratio in order to preserve large blocks of undisturbed land. The open space shall be left in an undisturbed, natural state. Landscape plantings shall not be permitted, except in areas where revegetation may be necessary to increase buffering, as determined by the Planning Board. If revegetation of any area is within the jurisdiction of the Conservation Commission, the Commission shall determine the type and extent of plantings, to be compatible with the values and functions of the wetland and upland resources of the site.

5441. Ownership of Open Space. The open space shall be owned in common by the owners of the dwelling units in the development, or by an organization or entity owned and controlled by such dwelling unit owners, or can be offered to the Town, or another non-profit organization whose principal purpose is the preservation of open space, for conservation purposes. An enforceable restriction shall be recorded on all open space parcels providing that such land shall be kept in an open or natural state and not be built for residential use or developed for accessory uses such as parking, roadway or active recreation.

5442. On smaller parcels where conveyance of the open space property is not valuable to the Town or a conservation organization, the required open space as calculated above may be left in the control of the owners of the dwelling units in the development without the granting of a conservation restriction or other perpetual easement, with a notation on the Plan that such property is not available for construction of any structures and removal of vegetation is prohibited.

5450. Price Restrictions. Units developed under this Bylaw shall be sold and resold at no

more than 2 times the cost for the sale of 2 bedroom detached or attached homes, whichever is applicable, under the Department of Housing and Community Development guidelines for the Local Initiative Program, or other state or federal affordable housing program that determines purchase price for housing units in the Boston area (plus 25%). Condominium fees are excluded in the cost per unit calculation.

5451. Enforcement of Sale and Resale Provisions. Original purchase and resale prices shall be permanently restricted, to the extent legally permissible, to ensure long-term affordability. Sale and resale provisions shall be contained in applicable deed restrictions, covenants, contractual agreements such as limited equity provisions, condominium association Bylaws and/or other mechanisms to ensure compliance. Such restrictions shall not be permitted to be altered without consent of the Town of Sudbury. Annual reporting to the Planning Board is required for all units sold or resold.

5460. Procedures.

The procedure for issuance of a special permit for an Incentive Senior Development shall be as follows:

5461. Application for Special Permit. Any person who desires a Special Permit for construction of an Incentive Senior Development shall submit a written application to the Planning Board. Each such application shall be accompanied by the following information:

a. Identification of applicant; information as to the record title to the tract; identification of applicant's professional and development associates.

b. A preliminary subdivision plan showing the development of the tract under the provisions of the Zoning Bylaw without regard to this section, for the purposes of determining density. Such plan shall generally conform to provisions described in the Rules and Regulations Governing the Subdivision of Land for a preliminary plan. Drainage design and calculations are not necessary. Such plan shall be accompanied by a report from a Certified Soil Evaluator, with confirmation that the results have been approved by the Board of Health, stating which lots on said plan contain soil conditions suitable for sub-surface sewerage disposal in accordance with rules and regulations of the Town of Sudbury and applicable laws of the Commonwealth of Massachusetts. Soil testing witnessed by the Board of Health or its agent is required. The preliminary plan shall also contain the boundaries of all wetland resource areas as defined in the Sudbury Wetland Administration Bylaw.

c. A Site Plan showing, insofar as pertinent, all of the information required for a definitive subdivision plan, as specified in the Town of Sudbury, Subdivision Rules and Regulations, as amended, and showing the following additional information: soil characteristics as shown on Soil Conservation Service Maps; resource areas as defined G.L. c. 131, s.40, and delineation of the official wetland area boundaries as accepted by the Sudbury Conservation Commission pursuant to the Sudbury Wetland Administration Bylaw; existing floodplain boundary lines; existing and conceptually proposed locations of buildings containing dwellings and other buildings; all setback lines; existing and proposed roads and driveways; lighting; signs; proposed and existing wells and wastewater disposal systems on the parcel and abutting properties if such systems are within 200 feet of the property line; existing and proposed topography; existing perimeter of trees; proposed landscape features (such as fences, walks, planting areas, type, size and location of planting materials, methods to be employed for screening); the proposed use of the common land including improvements intended to be constructed thereon; the proposed ownership of all common land; and any other information required by the Planning Board.

d. A schedule of the stages or phases of development in accordance with which the applicant proposes to construct the development, including dates.

e. Sample floor plans of dwellings; elevation drawings or models of dwellings; schedule of building materials.

f. Plans showing proposed methods of stormwater management, including drainage calculations.

g. Plans showing proposed wastewater disposal facilities;

h. Sample copies of the legal structure formed for the operation, maintenance, management and enforcement of this development, including a master deed and Bylaws of the organization. All such documentation shall include a reference to the objectives of this Bylaw and the requirement for 100% of the units to be owned and occupied by at least one person age 55 or over.

5462. Reports from Town Boards or Agencies. The Planning Board shall transmit forthwith a copy of the application and plan(s) to the Board of Selectmen, Board of Health, Conservation Commission, Design Review Board, Park and Recreation Commission, Board of Assessors, Historic Districts Commission, Building Inspector, Fire Department, Department of Public Works, Police Department and the Sudbury Water District. Failure of any such board or agency to make a written recommendation or submit a written report within 35 days of receipt of the application shall be deemed a lack of opposition.

5470. Planning Board Action.

The Planning Board shall grant a Special Permit for an Incentive Senior Development if it finds, after holding a public hearing in accordance with requirements of G.L. c. 40A, that: (i) the development complies with the objectives of the Bylaw as stated herein; (ii) the development is in an appropriate location and does not significantly alter the character of the neighborhood in comparison to a single family residential development; (iii) adequate and appropriate facilities will be provided for the proper operation of the

development; (iv) the special permit use would not be detrimental or offensive to the adjoining zoning districts and neighboring properties due to the effects of lighting, odors, smoke, noise, sewage, refuse materials or other visual nuisances; (v) the special permit use would not cause undue traffic congestion in the immediate area; (vi) the development plan responds to the recommendations of Town Boards and Agencies; and (vii) the granting of the Special Permit would not result in unsuitable development of the land in question.

5471. Special Permit Conditions. In order to implement a Special Permit for an Incentive Senior Development and to assure compliance therewith, the Planning Board shall in the Special Permit set forth requirements and conditions that before a building permit is issued for any buildings (a) the applicant shall have submitted to the Planning Board detailed plans showing the locations, designs and layouts of such buildings and all driveways and accessory structures included in such stage or phase, (b) the applicant shall have provided security by covenant, bond or other means satisfactory to the Planning Board securing the construction and installation of driveways, utilities, drainage and related services in such phase, and (c) the Planning Board shall have determined that the detailed plans are in substantial conformity with the conceptual plans approved in the Special Permit.

5472. The Planning Board shall have so notified the Building Inspector of its review and approval of each phase.

5473. The Planning Board may set forth further requirements and conditions in the Special Permit as the Board shall deem appropriate to accomplish the purposes of this Bylaw, including requirements of recording of plans and documents and report thereof to the Board.

5480. Enforcement.

In accordance with the provisions of the General Laws, the Town may enforce the conditions and safeguards imposed on the exercise of special permits under this Section in equity or at law and to recover from the applicant, his successor or approved assignee(s) all moneys that may be required to complete the development plan approved.

5481. The penalty provisions of these Bylaws may be imposed upon the applicant, his general agent, tenant(s), architect(s), contractor(s), or any and all persons having an interest in the development site.

5482. All provisions of the development plan approved shall run in favor of the residents thereof but only to the extent expressly provided in the plan and in accordance with the terms of the plan, and to that extent such provisions, whether recorded by plan, easement, covenant, or otherwise, may be enforced at law or in equity by said residents acting individually, jointly or through their organization.

5483. In the event of a violation of law, an unauthorized sale or lease of the approved development site or any dwelling unit therein, development that deviates from the development plan approved, any use of the property that is not permitted in the development site, the failure to maintain residential land or if the applicant shall otherwise fail or neglect to comply with the conditions and safeguards imposed on the exercise of the special permit, the Building Inspector or Zoning Enforcement Officer may deliver a stop order to the applicant or his agent by certified mail, return receipt requested, and by posting the same in a conspicuous location in said site. The order shall describe the nature of the violation, and the date on which said order shall expire, which date shall not be less than six days later than the date of the stop order. Failure of the Town to deliver a stop order for any reason shall not prevent the Town from pursuing any other legal remedy permitted under law. Any person who shall violate the provisions of a stop order shall be deemed in violation of the Zoning Bylaw.

5490. Rules, Regulations and Fees.

The Planning Board shall adopt, and from time to time amend, Rules and Regulations consistent with the provisions of this Zoning Bylaw, G.L. c. 40A, and other applicable provisions of the General Laws, and shall file a copy of said Rules and Regulations with the Town Clerk. Such Rules and Regulations shall, subject to and in accordance with provisions of this Bylaw, prescribe as a minimum the size, form, contents, style and number of copies of plans and specifications, the Town Boards or Agencies from which the Planning Board shall request written reports, and the procedure for submission and approval of a Special Permit under the provisions of this section. The Planning Board shall also specify the fees to be paid in connection with application for a Special Permit for an Incentive Senior Development, bonding requirements to satisfy conditions of approval, and owner/occupancy reporting requirements to satisfy compliance with the age restriction. Other specifications as deemed necessary by the Planning Board shall be included in the Rules and Regulations.

5500. SINGLE ACCESSORY DWELLING UNITS IN RESIDENCE DISTRICTS.

5510. Purpose.

The existing development patterns of the Town have resulted in conditions which make it difficult for our parents, our children, and persons of low and moderate income to find suitable housing within the Town. The special regulations contained in this section have been enacted for the purpose of permitting the creation of a limited number of housing units suitable for occupancy by such persons, while ensuring compliance with the local planning standards and policies concerned with land use, building design, and requirements of the health, safety, convenience and general welfare of the inhabitants of the Town.

5520. Conditions and Requirements.

An owner or owners of a single family dwelling in Single Residence District "A", "C" or Wayside Inn Historic Preservation Zone may apply to the Board of Appeals for a Special Permit for the creation and occupancy of a single accessory dwelling unit in a detached

single family dwelling. Such application shall be accompanied by the application fee established by the Board of Appeals. After such notice and public hearing, and after due consideration of the report of the Board of Health, (and the Historic Districts Commission, where applicable), the Board of Appeals may grant such Special Permit provided that each of the following conditions and requirements is met:

5521. Occupancy

- a. Such unit shall be occupied by not more than four persons related by blood, adoption or marriage to the family owning and residing in the principal dwelling; or
- b. Such unit shall be occupied by not more than two domestic employees of the family owning and residing in the principal dwelling; or
- c. Such unit shall be occupied by a low or moderate income family with income not to exceed 80% of the regional median household income established in the Local Initiative Program Guideline of the Executive Office of Communities and Development (as the same may be amended from time to time).

5522. The accessory dwelling unit shall be located within the single family dwelling or its attached accessory structures in substantially the same size as they existed on the day of adoption of this section or, for single family dwellings not in existence on such day of adoption, as they have existed for five years prior to the application for such Special Permit. Such status shall be verified in the records of the Building/ Inspection Department. A single family dwelling shall be deemed to comply with the requirements of this subsection if any alteration or enlargement thereof subsequent to said day of adoption or within the said five year period does not increase the floor area of said dwelling, as hereinafter defined, by more than fifty (50) square feet. For dwellings in existence on the day of adoption which have been increased in floor area by more than fifty (50) square feet subsequent to the day of adoption, no special permit hereunder may be issued until after the expiration of five years from the last such alteration or enlargement. On request of the applicant, the Board of Appeals may waive all or a portion of any applicable five year period if it finds that such waiver will further the purposes of this section.

5523. The accessory dwelling unit shall be a use incidental to the single family dwelling, shall contain no more than 1,200 square feet, and shall occupy no more than 30% of the floor area of the single family dwelling and its attached accessory structures. Floor area is defined herein as the actual heated living area and does not include unfinished basements, attics, or storage spaces.

5524. There shall be no more than one single accessory dwelling unit per building lot.

5525. The owner of the dwelling in which the single accessory dwelling unit is created shall reside in the dwelling, either in the principal dwelling unit or the accessory dwelling unit. If the owner resides in the accessory dwelling unit, occupancy of the principal dwelling unit must be by persons satisfying the relationship or income criteria herein. For the purpose of this subsection, the "owner" shall be one or more individuals who constitute a family, who hold title to the dwelling, and for whom the dwelling is the primary residence for voting purposes. If the lot on which the single accessory dwelling unit is to be located is owned by the Town of Sudbury, the owner-occupancy requirement of this subsection shall not be applicable as long as the lot and the structures thereon continue to be owned by the Town of Sudbury.

5526. Adequate provision shall be made for the disposal of sewage, waste and drainage generated by the occupancy of the single accessory dwelling unit in accordance with all requirements of the Board of Health.

5527. The creation and occupancy of the single accessory dwelling unit shall not be detrimental to the neighborhood in which the lot is located or injurious to persons or property.

5528. Exterior appearance of a dwelling with a single accessory dwelling unit. The single accessory dwelling unit shall be designed so that the appearance of the structure remains that of a single family dwelling, subject further to the following conditions and requirements:

- a. All stairways to upper floors shall be enclosed within the exterior walls of the dwelling.
- b. There shall be no enlargements or extensions of the dwelling in connection with a single accessory dwelling unit except for minimal additions necessary to comply with building, safety or health codes, or the enclosure of an entryway or stairway.
- c. Any new exterior entrance shall be located on the side or in the rear of the dwelling.

5529. Off-Street Parking. There shall be at least two off-street parking spaces for the principal dwelling unit and at least one off-street parking for the single accessory dwelling unit. No parking spaces shall be located within the boundary of a street right of way. In no case shall parking spaces which are more than two spaces deep be considered in computing the required parking.

What year was the inclusionary/incentive provision adopted?

1998 Answer based on 7/30/04 phone conversation between researcher and Jody Kablack, Sudbury Town Planner.

Have affordable units been developed through this zoning mechanism?

Yes According to Jody Kablack, Sudbury Town Planner, (7/30/04) there has been one development in Sudbury using the Incentive Senior Development since 1998. The development is composed of 44 units. This was a special case because the land was donated by the town.

There is another development in the works by the same developer using private land and will have 40 units.

There is one Senior Residential Community Development (non-incentive) development in Sudbury composed of 39 units.

Sutton

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

Yes Town of Sutton Zoning Bylaw 2003

Affordable Housing: Dwelling units available at a cost of no more than thirty percent (30%) of gross household income to households at or below eighty percent (80%) of the county median income as reported by the U.S. Department of Housing and Urban Development (HUD).

C. Limited Density Residential Development

c. Density: The overall tract density (i.e., total dwelling units divided by total acres) shall not exceed eight-tenths (.8) dwelling units per acre, except as otherwise expressly provided in this section IV.C. 4. For a tract or tracts contiguous to a professionally managed, full service golf course of at least eighteen holes and at least as many acres as the tract or tracts being developed, the overall tract density shall not exceed one and six-tenths (1.6) dwelling units per acre if the land on which such golf course is located contains deed restrictions requiring such land to be used for purposes of at least an eighteen hole professionally managed full service golf course for no less than ninety-nine (99) years from the date that the special permit for such Limited Density Residential Development (LDRD) is approved by the Planning Board, and the special permit shall contain a condition to that effect. The land on which the golf course is located shall not be considered open land for purposes of the open land requirements of each tract as provided in this Bylaw and in M.G.L. Chapter 40A, §9. No more than one LDRD may be located on any one golf course.

A density bonus may be permitted when the proposed project provides permanently affordable housing opportunities for households earning less than or equal to 80% of the median income for Worcester County. Affordable units shall be developed Sutton Zoning Bylaw 36

concurrently with the market rate units and shall be dispersed evenly throughout the entire project with no two units adjacent. For each affordable dwelling unit provided under this section, one additional dwelling unit may be permitted, up to a maximum fifteen percent (15%) increase in number of dwelling units.”

K. Open Space Residential Development

8. Density Bonuses

The Planning Board may approve density bonuses pursuant to one or both of the following provisions, provided, however, that in no case shall the density bonus permit greater than a fifteen percent (15%) increase in the number of lots permitted in the subdivision.

a. A density bonus may be permitted when the proposed subdivision provides permanently affordable housing opportunities, whether within the Open Space Residential Subdivision or elsewhere in Sutton. When located within the Open Space Residential Subdivision, affordable units shall be developed concurrently with the market rate units.

1. For each affordable dwelling unit provided under this section, one additional dwelling unit may be permitted, up to a maximum fifteen percent (15%) increase in number of dwelling units. For Open Space Residential Subdivisions with individual lots for each dwelling unit or structure, the increase in dwelling units shall correspond with an increase in the number of lots otherwise allowed to be created in the subdivision.

b. A density bonus may be permitted when the proposed subdivision provides for public access to open space areas within the subdivision. For every five (5) acres of land that is donated to the municipality and open to public use, one additional building lot may be permitted, up to a maximum fifteen percent (15%) increase in the number of building lots. Open space that is open to public use shall be accessible from a public

way and adequate parking shall be provided to meet anticipated demand for the use.

L. Traditional Neighborhood Development

f. Density Bonuses

The Planning Board may approve density bonuses pursuant to one or more of the following provisions, provided, however, that in no case shall the density bonus permit greater than a twenty-five percent (25%) total increase in the number of dwelling units permitted in the TND as calculated above.

1. A density bonus may be permitted when the proposed TND provides permanently affordable housing opportunities. For each affordable dwelling unit provided under this section, one (1) additional dwelling unit may be permitted, up to a maximum fifteen percent (15%) increase in number of dwelling units.

2. A density bonus may be permitted when the proposed TND develops and constructs a playground or park on required open space areas within the development. For every one-half (½) acre of land developed and constructed as a playground, playing field, tot lot, or other active recreation area for children and donated to the Town, one (1) additional dwelling unit may be permitted, up to a maximum fifteen percent (15%) increase in the number of dwelling units. When deemed necessary by the Planning Board, adequate parking shall be provided to meet anticipated demand for the use.

Q. Continued Care Retirement Community

Density, Affordability & Preference

The maximum number of dwelling units permitted shall be determined as follows:

- Single family detached – ½ acre per dwelling unit
- Duplex to 4 units - 20,000 s.f. + 12,000 per dwelling unit
- Congregate housing, assisted living, restorative care/skilled nursing. - 10 dwelling/care units per acre

Ten percent (10%) of the dwelling units in the Continued Care Retirement Community shall be available to and permanently affordable for households earning less than or equal to 80% of the median income for Worcester County. An increase in the number of units of up to twenty percent (20%) of the maximum dwelling units allowed may be permitted on a one to one basis for units above and beyond the required ten percent (10%). The Planning Board shall require that the developer provide legally enforceable assurances, which are acceptable to the Planning Board that the affordable dwelling units will continue to be affordable in perpetuity. Affordable units shall be dispersed throughout the development and shall be indistinguishable from market rate units.

Except for restorative care/skilled nursing facilities, individual dwelling units shall be a minimum of 1,000 s.f. Care units in restorative care/skilled nursing facilities shall be a minimum of 700 s.f. Dwelling units shall have a maximum of 2 bedrooms.

The developer shall provide a plan and evidence their efforts to attract existing Sutton residents to the project.

What year was the inclusionary/incentive provision adopted?

2002 Survey received from Sutton in July 2005 marked the answer:

"optional in several regs but only CCRC (2002) mandates affordable."

Have affordable units been developed through this zoning mechanism?

No Survey received from Sutton in July 2005 marked the answer:

"Building 1st five units this year."

Swampscott

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

No

What year was the inclusionary/incentive provision adopted?

Have affordable units been developed through this zoning mechanism?

Swansea

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

No

What year was the inclusionary/incentive provision adopted?

Have affordable units been developed through this zoning mechanism?

Taunton

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

Yes City of Taunton Zoning Ordinance

14.2 INCLUSIONARY HOUSING

14.2.1 PURPOSE

The provisions of this Section are designed: a) to increase the supply of safe and sanitary housing in the City of Taunton that is available to and affordable by low, moderate and middle income households; b) to encourage a greater diversity of housing accommodations to meet the needs of family households and other City residents; c) to promote a reasonable mix and distribution of housing opportunities throughout the City and d) preventing the displacement of low, moderate and middle income Taunton residents.

14.2.2 APPLICABILITY

Any residential development may seek to increase its density of development through a special permit, provided it meets the standards for the provision of affordable housing outlined in this section.

14.2.3 DEFINITIONS

LOCAL HOUSING AUTHORITY - the local housing partnership is the organization recognized by the Massachusetts Housing Partnership (MHP) as a MHP affiliate. The central role of the local housing partnership is the promotion of affordable housing opportunities. The Taunton local housing partnership is designated by the Mayor.

LOW INCOME HOUSEHOLDS - "Low income families" are those whose incomes do not exceed 50 percent of the median income of the area, with adjustments for smaller and larger families.

MODERATE INCOME HOUSEHOLDS - "Moderate income families" are those whose incomes are no greater than 80 percent and no less than 50 percent of the median income of the area, with adjustments for smaller and larger families.

MIDDLE INCOME HOUSEHOLDS - "Middle income families" are those whose incomes are no greater than 120 percent and no less than 80 percent of the median income of the area, with adjustments for smaller and larger families.

INCOME STANDARDS - These income figures shall be as published by the United States Department of Housing and Urban Development for the Section 8 housing subsidy program.

AFFORDABLE - A dwelling unit will be considered "affordable" to a low, moderate or middle income household where:

(1) With regard to rental housing, the household spends no more than 30 percent of gross income for all shelter costs, including utilities; and;

(2) With regard to sales housing, including condominiums, the household spends no more than 28-30 percent of gross household income for mortgage principal and interest, property taxes, insurance, and (where applicable) homeowners' association fees.

Affordability requirements will be met if a 1 member household can afford a studio unit; a 2 member household can afford a 1 bedroom unit; a 3 member household can afford a 2 bedroom unit; and a 4 person household can afford a 3 bedroom unit.

AFFORDABLE HOUSING - Housing which is affordable, as defined above, to the target low, moderate and middle income households.

14.2.4 AFFORDABILITY STRUCTURE

14.2.4.1 Pricing Standards

As part of the application, a market plan will be submitted proposing the breakdown and price structure for all units in the development. Further affordable units, the following standards shall apply in calculating prices:

Rental Units - The 30 percent ceiling for rents shall include utilities, or the rents shall be set at a level so that the rent plus the utility allowances as published by HUD for the Section 8 program do not exceed 30 percent of the target income.

Sales Units:

(1) The mortgage interest rate shall reflect a rate at which a fixed rate mortgage is realistically available from conventional lenders in the area. Exceptions can be made if (a) the developer buys down the mortgage, or (b) if the developer obtains a commitment of mortgage funds at a lower interest rate from the Massachusetts Housing Finance Agency. With regard to a buy down, the bought-down interest rate should only apply if the rate of increase in the mortgage interest rate is 1/2 of 1 percent per year or less.

(2) The amount of mortgage payment should be based on a down payment of 5%.

(3) Property taxes shall be calculated on the basis of the current rate in the municipality.

(4) Insurance and homeowner's association fees shall be set at realistic levels, based on the best applicable experience. Where a blanket hazard insurance policy is taken out by the homeowners' association, insurance need not be included as a separate cost category.

14.2.4.2 Unit Composition

(1) With regard to the middle income units: 100 percent of the middle income units shall be affordable to households earning 88.5 percent of the middle income ceiling, or 106 percent of the area median income, adjusted for family size;

(2) With regard to the moderate income units: 50 percent of the moderate income units shall be affordable to households earning 90 percent of the moderate income ceiling, or 72 percent of the area median income, adjusted for family size; 50 percent of the moderate income units shall be affordable to households earning 75 percent of the moderate income ceiling, or 60 percent of the area median income, adjusted for family size; preference in purchase or rental of these units shall be given to moderate income households earning less than 90 percent of the moderate income ceiling.

(3) With regard to the low income units: 50 percent of the low income units shall be affordable to households earning 90 percent of the low income ceiling, or 45 percent of the area median income, adjusted for family size; 50 percent of the low income units shall be affordable to households earning 75 percent of the low income ceiling, or 37.5 percent of the area median income, adjusted for family size; preference in purchase or rental of these units shall be given to low income households earning less than 90 percent of the low income ceiling.

14.2.4.3 Required Affordable Units

Applications under this section shall meet one of the following thresholds for affordable housing:

% of all Units Type of unit provided

10% Units donated to the THA or to other non-profit agency approved by the Municipal Council or;

15% Units purchased by the THA at not more than EOCD maximum allowable reimbursement prices and;

15% Sold or rented to low income households according to the distribution in Section 14.2.4.2 and pricing in Section 14.2.4.1 or;

25% Sold or rented to moderate income households according to the distribution in Section 14.2.4.2 and pricing in Section 14.2.4.1. and; 100% Of the above sold or rented to middle income households according to the distribution in Section 14.2.4.2 and pricing in Section 14.2.4.1.

If the housing agencies do not have the funding to purchase the units or maintain the donated units then the option should be transferred to add 15% of the total units in the development to the second option.

14.2.4.4 Preference for City Residents and Workers.

At least 70% of the units donated, rented or sold shall be initially offered to Taunton residents, or persons who were residents of the City in the past five (5) years, or to persons employed within the City limits. These restrictions shall be in force for a time period of six months from the offering of sale or rental units to the public. The local housing partnership or the developer shall make a diligent effort to locate eligible buyers and or renters who meet the above qualifications. Fair selection methods to be approved by the local housing partnership and the City.

14.2.5 DEVELOPMENT STANDARDS

14.2.5.1 Maximum Allowable Density Rewrite to Read as follows: Base density shall be determined by the submission of a Base Development Plan to the Planning Board that at least meets the filing and design requirements of a preliminary subdivision plan under the "Rules and Regulations, Governing the Subdivision of Land - Taunton, Massachusetts," latest edition. In addition, Wetlands shall be delineated on the site as per Chapter 131, the Wetlands Act, any Local Wetlands General Ordinance and Conservation Commission Rules and Regulations. Said delineation shall be approved by the Conservation Commission as true and accurate under the Wetlands Act, the General Ordinance and the Rules and Regulations. Other site development restrictions such as flood plain, archeological sites, endangered species habitat, slopes over 8% shall be detailed on the plan and proposed drainage basins. The plan shall show the maximum number of lots and/or units that can be feasibly built on the lot in conformance with all

currently applicable zoning requirements (such as allowable uses contained in section 5.2, dimensional requirements contained in section 6.3 etc)

The Planning Board, based on the Base Development Plan and other information it may require during the hearing, shall determine as far as practical the maximum number, of units that could be constructed on the site under a conventional development allowed in the zoning district. For the purposes of this section, this density shall be known as "Base Density".

Once the Base Density has been determined by the Planning Board, the Maximum Density shall be established under this section by a Special Permit for proposed developments meeting the minimum level of affordable housing as defined by this section. The Special Permit granting authority under this section shall be the Planning Board except in cases where the Municipal Council is the Special Permit Granting Authority under section 5.2 for the type of use (s) proposed in which case the Municipal Council shall be the Special Permit Granting Authority. The maximum allowable density shall not be less than 1.75 times the Base Density and the Maximum Allowable Density shall not exceed 2.75 times the Base Density. Surrounding development and character, supporting infrastructure, availability of municipal services, profitability etc. are some of the important factors that will be utilized to determine the maximum allowable density under this section. In addition, a pro forma in conformance with Ch40B Comprehensive Permit regulations shall be required to ensure that the maximum profit shall not exceed 20%.

Frontage, setbacks, minimum lot area, minimum dry area, side and rear yard dimensions shall be guided by the characteristics of the site, proposed structures, the nature of the existing built environment in the area, and principles of good site planning. Zero lot line development is permitted.

**Webmasters Note: The previous section has been amended as per an update adopted 8/24/04.

14.2.5.2 Submittal Requirements

The submittal requirements and review standards including administration, application and submission requirements, fees, powers, hearings and time limits, shall be as provided for Site Plan Review, Section Fifteen, as specified in other sections of this article and as specified for multifamily development, if applicable.

Comparability.

Affordable units shall be dispersed throughout the site and shall be compatible with, and as nearly indistinguishable from, market-rate units in terms of external appearance.

Family Units.

Except as otherwise provided by the authority granting the Special Permit, affordable units shall contain two or more bedrooms and shall be suitable in type and design for family occupancy.

Public Land.

Any residential development subject to this Section that is constructed or created on publicly-owned land may be required to provide additional affordable units as determined by the City of Taunton in its disposition program for the site.

Options for Provision of Required Units.

The low and moderate income units required in Section 14.2.4.3 may be provided in any one or combination of the following ways:

(a) Construction of new units on the permit site.

(b) Cash payment to the City of Taunton to be administered by the local housing partnership herein established to be used to make available housing units for low and moderate income households in a manner and at locations in conformance with provision of this section).

The cash equivalent of the required units, as authorized in (b) above, shall be determined on a yearly basis by the Taunton Housing Development Trust and shall be equal to the current total construction cost of the unit or units required. Affordable units provided through such alternative methods shall comply, in all respects other than on-site location, with the requirements of this Section.

14.2.6 Compliance/Enforcement

Affordability Restrictions.

Affordable units shall be rented or sold subject to applicable deed covenants, contractual agreements, and/or other appropriate arrangements to assure long-term affordability.

Purchase/Lease Options.

The City may further require, for itself or its designee, an option to purchase or lease affordable units for amounts consistent with the provisions of this Section. Such option may apply to the initial and any subsequent sale or lease of affordable units, consistent with the term of the affordability restriction. The City or its designee may identify qualified buyers or renters for affordable units.

Permit Conditions.

No Special Permit, shall be issued to increase the permissible density or intensity of use for a development covered by this Section without appropriate restrictions to ensure that the provisions of this Section are made binding upon the applicant.

Occupancy Conditions.

No certificate of occupancy shall be issued for any market-rate units in a development covered by this Section until -

i) all deed covenants, contractual agreements, and/or other documents necessary to ensure compliance by the applicant with the requirements of this Section have been executed;

ii) all of the affordable units required to be constructed have obtained a certificate of occupancy (unless bonding or other arrangements have been made to ensure the timely provision of such units);

iii) any required cash payment has been made to the City or its designee; and/or

iv) any land or buildings required to be donated to the City or its designee has been conveyed.

Sold or rented to moderate income households according to the distribution in Section 14.2.4.2 and pricing in Section 14.2.4.1.

What year was the inclusionary/incentive provision adopted?

2000 According to Town Planner Kevin Scanlon (11/12/04), the inclusionary zoning was adopted in 2000.

On ordinance.com:

14.2 Inclusionary Housing

14.2.5

**Webmasters Note: The previous section has been amended as per an update adopted 8/24/04.

Have affordable units been developed through this zoning mechanism?

No Town Planner Kevin Scanlon (11/12/04) said that the inclusionary zoning by-law has never been used.

Tewksbury

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

Yes Town of Tewksbury Zoning Bylaw, Section 7000 (Last Amended 2004).

"SECTION 7000. SPECIAL RESIDENTIAL REGULATIONS

7010. AFFORDABLE HOUSING REQUIREMENT

7011. Purpose and Intent:

The purpose of this bylaw is to outline and implement a set of policies and objectives for the development of affordable housing in compliance with G.L. c. 40B sect. 20-24 and various initiative programs developed by state, county and local government. It is intended that the Affordable Housing Units that result from this bylaw be considered as Local Initiative Units in compliance with the requirements for the same as specified by the Department of Housing and Community Development.

7012. Applicability:

Multiple Unit Development: A special permit from the special permit granting authority (SPGA) shall be required when the construction of dwelling units is requested, whether on one or more contiguous parcels, within a Multiple Family District or a Multiple Family District/55. The total number of dwelling units within the proposed development shall be counted and are subject to the provisions of Section 7014, below. The SPGA shall deny a special permit application if, in the opinion of the SPGA, the land or parcels of land, held in common ownership, were subdivided or otherwise modified resulting in a reduction of the potential number of Affordable Housing Units."

From ordinance.com:

SECTION 7000. SPECIAL RESIDENTIAL REGULATIONS

7010. Affordable Housing Requirement

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provisions of Section 7014, below. The SPGA shall deny a special permit application ii; in the opinion of the SPGA, the land or parcels of land, held in common ownership, were subdivided or otherwise modified resulting in a reduction of the potential number of Affordable Housing Units.

7013. Definitions:

a. AFFORDABLE HOUSING UNIT - A Dwelling Unit available at a purchase cost of no more than 30% of gross household income of households at or below 80% of the Middlesex County median income as reported by the U.S. Department of Housing and Urban Development, including units listed under G.L. c.40B s. 20-24 and the Commonwealth's Local Initiative Program.

b. QUALIFIED AFFORDABLE HOUSING UNIT PURCHASER OR TENANT . An individual or family with household incomes that do not exceed 80% of the median income, with adjustments for household size, as reported by the United States Department of Housing and Urban Development (HUD) and the Commonwealth's Local Initiative Program.

c. AFFORDABLE HOUSING TRUST FUND . An account established by the Town for the specific purpose of creating Affordable Housing Units, available for use by the Local Housing Partnership for the purchase of land or units, or the development of new or rehabilitation of existing dwelling units for affordable housing occupants. (Annual Town Meeting, May 6, 2002 Art 3-28.)

7014. Provisions:

a. An application for a Multiple Unit Development special permit shall require that at least fifteen (15) percent of the total Dwelling Units in the Multiple Unit Development be established as Affordable Housing Units (7013a): The calculation of the number of designated affordable units shall be rounded to the next whole number for units equal to 0.5 or greater.

b. The SPGA may waive the construction or provision for Affordable Housing Units for an equivalent fee-in-lieu-of units payment made to the Town of Tewksbury for disbursement to the Affordable Housing Trust Fund, subject to the provisions and policies of the Tewksbury Local Housing Partnership for the creation of Affordable Housing Units (7013a) in the Town of Tewksbury.

c. Timing of construction, provision or payments of fees-in-lieu of affordable units. Where feasible, 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.

Fractions of units shall not be counted.

d. Siting of Affordable Housing Units.

All affordable units constructed or rehabilitated under this bylaw shall be situated within the development 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. 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. Interior features of affordable units shall comply in all respects to the minimum design and construction standards set forth in the Local Initiative Guidelines by the Department of Housing and Community Development, July 1996, or as amended.

e. Marketing Plan for Affordable Units.

The Applicant under this bylaw, in conjunction with the Tewksbury Local Housing Partnership, shall submit a marketing plan to the SPGA for its approval, which describes how the affordable units will be marketed to potential homebuyers or tenants. This plan shall give priority to Tewksbury residents and include a description of the lottery or other process to be used for selecting buyers or tenants.

f. Maximum Incomes and Selling Prices: Initial Sale:

To ensure that only eligible households purchase or rent Affordable Housing Units, the purchaser or renter of an affordable unit shall be required to submit copies of the last three years' federal and state income tax returns and certify, in writing and prior to transfer of title, to the developer of the housing units or their agent, and within thirty (30) days following transfer of title, to the Tewksbury Housing Authority or other agency as established by the Town, that his/her or their family's annual income level does not exceed the maximum level as established by the Commonwealth's Department of Housing and Community Development.

The maximum housing cost for affordable units created under this bylaw is as established by the Commonwealth's Department of Housing and Community Development, Local Initiative Program or as revised by the Town.

g. Preservation of Affordability; Restrictions on Resale:

Each Affordable Housing Unit created in accordance with this bylaw shall have 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 on the property and shall be in force in perpetuity.

1. Resale price. Sales beyond the initial sale to a qualified affordable income purchaser shall include the initial discount rate between the sale price and the unit's appraised value at the time of resale. This percentage shall be recorded as part of the deed restriction on the property noted above. For example, if a unit appraised for \$ 100,000 is sold for \$75,000 as a result of this bylaw, it

has sold for 75 percent of its appraised value. If, several years later, the appraised value of the unit at the time of proposed resale is \$ 150,000, the unit may be sold for no more than \$112,500--75 percent of the appraised value of \$ 150,000.

2. 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, the municipality's right of first refusal to purchase the property in the event that a subsequent qualified purchaser cannot be located.

3. The SPGA 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 the execution of the deed rider noted in Section 7014g.1. The Building Commissioner shall not issue an occupancy permit for any affordable unit until the deed restriction is recorded

h. Conflict with Other Bylaws/Ordinances:

The provisions of this bylaw shall be considered supplemental to existing zoning bylaws. To the extent that a conflict exists between this bylaw and others, the more restrictive bylaw, or provisions therein, shall apply.

i. Review by Special Permit Granting Authority (SPGA):

The Planning Board shall be designated as the SPGA under this bylaw.

7015. 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 sections or parts of any section or sections of this bylaw shall not affect the validity of the remainder of the Tewksbury zoning bylaw.

**Webmasters Note: The previous sections, 7010 through 7015, have been added as per an update approved at a town meeting held on 10/1/02.

Survey received from Tewksbury on 4/15/05:

Does the municipality offer a "density bonus" in exchange for designation of affordable units?

"Yes"

What year was the inclusionary/incentive provision adopted?

"2002"

Have affordable units been developed through this zoning mechanism?

"No"

What year was the inclusionary/incentive provision adopted?

2002 Researcher inquired with Linda Deprimino at the Planning Department and Dawn Cathcart, permit technician but they did not know the answer. Researcher could not locate the information in the bylaw.

**Webmasters Note: The previous sections, 7010 through 7015, have been added as per an update approved at a town meeting held on 10/1/02.

Survey received from Tewksbury on 4/15/05:

What year was the inclusionary/incentive provision adopted?

"2002"

Have affordable units been developed through this zoning mechanism?

No According to Dawn Cathcart, at the Building Department, there are several large projects in front of the zoning board of appeals currently, but she was unable to give researcher a specific number.

In addition, the Master Plan, p. 5.15-5.16, states that: "Tewksbury has 410 units of

housing that qualify as "affordable" under Chapter 40B, a law that is highly controversial in most communities because it overrides local zoning regulations that make low- and moderate-income housing economically infeasible to build. The device that overrides local zoning regulations is known as a comprehensive permit."

**Webmasters Note: The previous sections, 7010 through 7015, have been added as per an update approved at a town meeting held on 10/1/02.

Survey received from Tewksbury on 4/15/05:

Have affordable units been developed through this zoning mechanism?

"No"

Topsfield

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

No

What year was the inclusionary/incentive provision adopted?

Have affordable units been developed through this zoning mechanism?

Townsend

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

Yes §145-48. Affordable housing conditional density bonus.

[Added 4-25-1989 ATM by Art. 33]

A. Purpose and authority. This section is adopted pursuant to MGL c. 40A, 9 in order to encourage various housing types for persons of various ages and income levels and create affordable housing, to help people who have lived and worked in Townsend and have been unable to obtain suitable housing at a reasonable price, and to maintain a stable economy by preventing the out migration of lower income groups who provide essential services. The Planning Board may issue a special permit which allows an increase in density through a partial relaxation of requirements of this bylaw but only in conjunction with procedures described in 145-39, Open space preservation development, and 145-47, Open space multifamily development, and shall require that a minimum of 30% of all units developed on the site be sold and maintained at affordable prices, according to the standards contained in Subsection C below. The Planning Board may not allow an increase in density beyond one total dwelling unit per acre. As a further incentive for the construction of affordable housing, the Board may, in its discretion, waive certain improvement requirements set forth in the Townsend Subdivision Rules and Regulations."

B. Definitions.

AFFORDABLE HOUSING DEVELOPMENT - A project requiring approval under this section.

AFFORDABLE HOUSING UNITS - Units which may be purchased or rented by those who meet the guidelines for maximum annual income for a low-income, or moderate-income family. Low-income families shall have an income between 50% and 80% of the Townsend median income, and moderate-income families shall have an income between 80% and 120% of the Townsend median income. Affordability means that housing costs for a family shall not exceed 30% of their gross annual income in the previous calendar year. Housing costs include:

(1) For homeowners: payments for principal and interest on a mortgage, real estate taxes, homeowner's insurance, and condominium fees, if any; or

(2) For renters: rent including heat but not other utilities. In determining median income, the most recent data available from the Massachusetts Housing Partnership Program shall be used.

DESIGN STANDARDS - Specific design standards for construction within the plan shall be made part of the special permit and will be used to ensure conformity and compatibility between units. Other requirements for design shall be as required under 145-39 and

145-47 of the Zoning Bylaw, and applicable sections of the Townsend Subdivision Rules and Regulations.

MODIFICATION OF STANDARDS - The minimum requirements of 145-39E and 145-47E of the Townsend Zoning Bylaw may be modified upon a finding by the Board that such modification creates no adverse impacts on health, safety and welfare; and is found to be in the public interest because of the high quality of design that would result, and does not derogate from the intent of this bylaw.

NUMBER OF AFFORDABLE UNITS - The number of units allowed in excess of that permitted by underlying zoning will be subject to negotiation with the Planning Board and will be determined with due regard to the project approval requirements of this bylaw. In no case shall the maximum density increase beyond one total dwelling unit per acre.

PHASING - A schedule of construction must be submitted providing the timely delivery of the affordable units.

SALE PRICE - The sale price for the affordable units will be determined by reference to the most recent Massachusetts Housing Finance Agency (HOP) figures depicting the ability to purchase of target groups whose income is approximately 50% to 120% of the Town of Townsend median income figures. [Amended .12-4-1990 STM by Art. 8]

C. Applicability. Density increases associated with the creation of affordable housing shall be allowed only within open space preservation developments, 145-39 and open space multifamily developments, 145-47.

D. Application requirements. Preliminary plan applications for proposed cluster residential developments are to be made to the Planning Board according to 145-39 and 145-47 of the Townsend Zoning Bylaw. In addition to those requirements noted in 145-39 and 145-47, a statement as to how the proposal conforms to the purposes and objectives of this bylaw shall be required for such preliminary Submittals.

E. Site plan review.

(1) Purpose. The purpose of the site plan review is to ensure that the design and layout of all developments occurring under Townsend 's Affordable Housing Conditional Density Bonus Bylaw will constitute suitable development and will not result in a detriment to the neighborhood or the environment;

(2) Applicability. Any affordable housing development which would, under the parking requirements, Article VIII, require five or more parking spaces, regardless of the number of parking places existing on the premises, shall be subject to the 145-42, Site plan review;

(3) Procedure. Applications under this section subject to site plan review shall adhere to the procedures for site plan review of 145-42 of this bylaw, except that the Planning Board shall not require an additional special permit for site plan review but, rather, incorporate site plan review conditions in the special permit required under 145-39 or 145-47.

F. Project approval requirements. The Planning Board will review all projects and will recommend approval of the special permit if, in the Board's sole discretion:

(1) The Board is satisfied that the applicant has conformed to the development, architectural, and design standards of this bylaw, and will deliver the affordable units required under Subsections A and B of this Affordable Housing Bylaw;

(2) The proposed development site plan is designed in its site allocation, proportions, orientation, materials, landscaping and other features as to provide a stable and desirable character, complimentary and integral with the site's natural features;

(3) The Board makes a finding that such development, density increase, or relaxation of zoning standards does not have a material, detrimental effect on the character of the neighborhood or Town and is consistent with all performance standards of the Townsend Zoning Bylaw, including Subsections D and E above;

(4) The proposed development is consistent with all municipal comprehensive plans and objectives.

G. Long-term afford ability.

(1) In order to maintain long-term afford ability for low- and moderate-income home buyers, there shall be certain resale restrictions upon the unit's resale value. This resale price restriction will be incorporated into the deed conveying the property to the initial purchaser and will bind all subsequent purchasers for a period of 40 years after the initial conveyance;

(2) The resale of "affordable housing units," as defined in Subsection B above, will be limited to a percentage of the unit's fair market value at the time of resale. This limitation will be determined by the percent below fair market value for which the home originally sold. This percentage shall be recorded as part of the deed restriction. All subsequent resales for a period of 40 years after the initial conveyance shall be discounted by this same percentage from the fair market value of the house at the time of the resale. Through agreement between the Planning Board and the developer, these parties may chose, at the time of the recording of the deed, to modify the differential by plus or minus 5% in order to assure that the target income groups' ability to purchase be kept in line with the unit's market appreciation and to provide a proper return on equity to the seller;

(3) All deed restrictions will require that the homeowner give 90 days' notice to the local housing agency or partnership program of his or her intent to sell. If the local housing agency or partnership program fails to respond to the homeowner within 30 days to the effect that they are proceeding to find an eligible buyer, the homeowner may thereafter sell the home to anyone meeting income guidelines;

(4) The Planning Board will designate either the local housing agency or partnership program as the authority which shall control

long-term afford ability under the requirements of this section, based on submission of information showing the agency's ability to carry out these restrictions and the administrative criteria and process by which the resales shall occur.

What year was the inclusionary/incentive provision adopted?

1989 §145-48. Affordable housing conditional density bonus.

[Added 4-25-1989 ATM by Art. 33]

Have affordable units been developed through this zoning mechanism?

No Survey received from Townsend Planning Board on 5/20/05:

"No"

Tyngsborough

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

Yes Tyngsborough Zoning Bylaw (2003)

4.12.00 Special Permits - Multifamily Development.

4.12.10 Applicability and Objectives. A plan submitted under this section shall require Town Meeting approval. The issuance of a Special Permit can only be granted following Town Meeting approval. The construction of any structure designed for the occupation and habitation of three or more families by virtue of separate and complete living quarters containing kitchen facilities, bathroom facilities and sleeping quarters shall be deemed a multi-family development for purposes of this section. The objectives of this section are to allow controlled multifamily development in Tyngsborough so as to: promote and provide a greater variety and choice in housing types; to broaden the availability of housing for persons and families of limited income; to focus development at locations able to support such development with minimal environmental or municipal cost; and to protect the Town's natural environment, its existing character and its ability to provide public services.

[...]

4.12.40 Additional Dwelling Units - Upon petition to the Planning Board the number of dwelling units allowed pursuant to Section 4.12.30 paragraph 7 may be increased by 25 % provided the applicant meets the requirements of this section. 4.12.41 Specific Requirements 1. The applicant by means of a recordable instrument agrees to offer- for sale or rent at an acquisition price or rent level deemed "affordable" as hereinafter defined, not less than 50% of the additional units granted pursuant to this section or; not less than 20% of the additional units granted by virtue of this section the ownership of said unit to be transferred by deed-or by a recordable irrevocable instrument, to the Tyngsborough Housing Authority who shall thus maintain and use said units in accordance with Massachusetts General Laws Chapter 121B Section 11. 2. The applicant meets the conditions and terms concerning, but not limited to, resale restrictions, tenant-purchaser selection and eligibility, resident priority and other administrative rules and regulations as promulgated by the Planning Board which are designed to insure the goal of providing affordable housing is continued. 3. All units provided pursuant to this section shall not be less than the average size of all other units in the same development and shall be similar in terms of siting, style and quality of construction. 4.12.42 Determination of Affordability - The term "affordable" shall be defined as the maximum purchase price or less allowed by the Massachusetts Housing Finance Agency through said Agency's First Time Homebuyer Program for the Lowell, MA - NH Primary Metropolitan Statistical Area for newly constructed condominium units. The term "affordable" for rental units shall be defined to be the Fair Market Rent or less as established by the Department of Housing and Urban Development for the Lowell, MA - NH Primary Metropolitan Statistical Area for the purpose of determining eligibility in the Section 8 Housing Rental Program. In all cases the most recent published figures shall apply.

What year was the inclusionary/incentive provision adopted?

Have affordable units been developed through this zoning mechanism?

Upton

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

Yes Town of Upton Zoning Bylaw (Amended 2002)

SECTION XVIII SENIOR HOUSING COMMUNITY
1.0 Scope

1.1 Purpose & Intent

The purpose of the Senior Housing Community [SHC] bylaw is to encourage development that provides alternative housing choices for people that are fifty-five years of age or older.

It is the intent of this bylaw to enhance and preserve the rural village character of Upton, to protect open space, to preserve our natural resources and to promote efficient use of the land and infrastructure.

1.2.1 Objective

The following objectives will apply to all proposed Senior Housing Communities construction in Upton.

To establish a procedure whereby each proposal for a SHC will be reviewed separately and judged by standards designed to protect both the special quality of the site and its environment.

To ensure the SHC is developed in accordance with the planning objectives [Master Plan] of the town and at a rate that can be supported by the town services.

To encourage the conservation of viable acres of open land, wildlife habitats, historical and natural resources.

To encourage and recognize the importance of diversity and variety in the exterior design of structures so that those are specifically designed for and related to special conditions and features of the proposed site.

To require builders to use visual space planning to all site development elements, such as parking, wooded or conservation areas, adjacent streets, accessory buildings, lighting and open areas.

To provide for design review of all proposed SHC prior to construction, to ensure compliance with the above intent and objectives and to assure that the proposal will not result in or contribute to incompatible use of the land, pollution of the soil or ground water, traffic congestion or inappropriate site development.

2.0 Definitions

Assisted Living Facility: Includes the provisions of services geared to an aging adult population which may have difficulty functioning independently and may require oversight including, but not limited to the provisions of a full meal plan, transportation services, personal care and assistance with medication.

Congregate Senior Housing: Means private dwelling units/apartments which may have kitchen facilities within a complex containing central dining and other common areas and is designed for an adult population requiring some supportive services including but not limited to meals, housekeeping, home health and other supportive services.

Common Land: Common land shall be an area of land owned and maintained by a homeowners association and used solely for recreational, conservation, agriculture or forestry purpose by residents of the development and/or the public.

Dwelling Unit: One or more living or sleeping rooms arranged for the use of one or more individuals living as a single housekeeping unit with individual or congregate cooking, living, and sanitary facilities, excluding mobile homes and trailers. The intent of this definition is to define a "home" with private sleeping rooms rather than a dormitory arrangement of sleeping quarters.

Impervious Surface: A surface area in which water is not allowed an entrance, which includes but not limited to building footprints, roadways, driveways, and parking lots, ECT.

Independent Senior Housing: Means private residential dwelling units, individually equipped with a minimum of a kitchen, bedroom, bathroom and living area. Geared toward independently functioning adults, this housing typically does not offer on-site supportive services but is designed to be barrier free and should include emergency call features complemented by housing management and facility maintenance services.

Open Space: Open space shall be an area of undeveloped land used solely for conservation and is permanently protected from development by a permanent conservation restriction in accordance with M.G.L., Ch.184, §31. Open space shall not contain any common land.

Restorative Care/Skilled Nursing Facility: Includes the provision of service for long term nursing, convalescent or rehabilitative care; supervision and care incident to advanced age, retirement home care for elderly persons.

Senior Housing Community: A multifamily residential land use consisting of a multiple dwelling unit(s) on one single contiguous parcel, with the intent that at least one resident of each dwelling unit be 55 years of age or older. For the purpose of this bylaw, housing units are intended for occupancy by persons fifty-five years of age or older within the meaning of M.G.L., Ch.151B, §4.6 and shall comply with the provisions set forth in 42 U.S.C., §3601.

Shall: Indicates a mandatory requirement.

Should: Indicates a recommendation or that which is advised but not necessarily required.

SPGA: Special Permit Granting Authority.

3.0 Special Permit Granting Authority

The Planning Board shall be the Special Permit Granting Authority for Senior Housing Community in the Town of Upton, and is authorized to hear and decide upon applications for special permits for senior housing communities in accordance with the provisions of this zoning section.

4.0 Application in Zoning Districts

A Senior housing Community, under single ownership or as condominiums, may only be permitted by a special permit in districts A, B, C, D, and A&R where residential uses are permitted by right in accordance with the requirements and regulations of the Town of Upton Zoning Bylaws.

5.0 Procedure and Administration

5.1 Application Procedure

The application procedure consists of two steps:

1. Pre-application review of a conceptual site plan by the Special Permit Granting Authority.
2. An application for approval of a senior housing community special permit to the SPGA.

5.1.1 Pre - Application

To be eligible to apply for a special permit, applicants are required to have submitted a conceptual site plan prepared by a registered landscape architect, a registered architectural architect, and a registered professional civil engineer at a scheduled Planning Board meeting. The conceptual site plan shall include a detailed analysis of site topography, wetlands, unique land features and soil type, site layout and building design. The purpose of this requirement is to help applicants and Town officials develop a better understanding of the property and to help establish an overall design approach that respects the intent of this bylaw.

Commentary: The pre – application process should not be limited to one meeting, but should be a series of

meetings to review and discuss details and options.

5.1.2 SPGA – Application

Applicants are required to submit a special permit application and site plan, conforming to the requirements of this bylaw, to the SPGA for approval.

Contents of special permit application: The application for a senior housing community special permit shall be accompanied by a site plan including all of the plans and information listed below.

1. The plan or plans shall contain the following: The name of the record owner(s) of the land, the name of the applicant, the name of the registered landscape architect, the name of the registered architectural architect, the name of the registered professional engineer, and the name of the land surveyor who made the plan(s).
2. A "EXISTING CONDITIONS PLAN" [at a scale of not less than 1" = 100'] showing topography, soil types, watercourses, wetlands and 100-year floodplains, existing streets, all known easements, and structures within and on parcels contiguous to the tract.
3. A "OVERALL LAND USE PLAN" [at a scale of not less than 1" = 100'] showing the location ownership, and use of the proposed common land, the extent of open space, the area of residential use, the maximum number of residential units proposed, and the maximum number of bedrooms, any amenity or recreation area serving the residential uses, and the general layout of all roads and access ways. The "Overall Land Use Plan" shall include a tabulation indicating the total area, upland area, wetlands area, open space area, common land area, all impervious area to be created in the senior housing community and the respective percentage of each area for the entire tract.
4. A "LAYOUT PLAN" for the proposed senior housing community [at a scale of not less than 1" = 100'] showing the intended location of each residential building, accessory structure and facility, the intended location of all roads and access ways, curbs, driveways and approximate finished grades, the proposed location of all recreational areas, proposed improvements and structures on the common land, and methods for providing water and sewerage facilities.
5. A plan or plans showing the proposed grading of the tract and the proposed location, dimensions, materials and type of construction of streets, common drives, parking areas, walks, paved areas, utilities, emergency access ways, easements, and the location and outline of all proposed buildings and structures including, but not limited to dwellings, garages, and any accessory structures thereto. If the proposed senior housing community is to be constructed in separate phases, this plan or plans shall clearly indicate the construction phases proposed.
5. A plan or plans showing the proposed use of common land [whether public or private], including all improvements intended to be constructed thereon.
6. A plan or plans showing in a general way existing vegetation [at a scale of 1" = 100'] and detailed landscaping and planting plans [at a scale of 1" = 100'] for all areas to be disturbed and buffer areas.
7. A perspective plan or plans showing the proposed architecture of the buildings / structures by type and such plan(s) shall include a tabulation of proposed buildings / structures by type [i.e. number of units per building, and number of bedrooms per unit].
8. Copies of all instruments to be recorded with the senior housing community special permit, including the proposed deed(s) for the common land, dispositions of open space, the articles of organization and bylaws of any corporation or trust to be organized to own the land and the language of all restrictions to be imposed on the land.
9. A management plan for common land to be incorporated in the deed covenants to be executed with purchases of land or other interests in the senior housing community.

5.1.3 Development Impact Statement

At the discretion of the SPGA, the submittal of a development impact statement [DIS] may be required at the expense of the applicant. The SPGA may deny a special permit where the DIS discloses that the proposed use does not comply with the provisions of this by-law, or would be detrimental to the Town or its citizens. The DIS shall be prepared by an interdisciplinary team including a Registered Landscape Architect or Architect, a Registered Civil Engineer, Registered Surveyor, and a Land Planner, and may include all or some of the following information.

5.1.3.1 Physical Environment

- a. Describe the general physical conditions of the site, including amounts and varieties of vegetations, general topography, unusual geologic, archeological, scenic and historical features or structures, locations of significant viewpoints, stone walls, trees over 16 inches in diameter, trails and open space links, and indigenous wildlife.
- b. Describe how the project will affect these conditions, providing a complete physical description of the project and its relationship to the immediate surrounding area.

5.1.3.2 Surface Water and Subsurface Conditions

- a. Describe locations, extent, and types of existing water and wetlands, including existing surface drainage characteristics, both within and adjacent to the site.
- b. Describe any proposed alterations of shore-lines or wetlands.
- c. Describe any limitations imposed on the project by the site's soil and water conditions.
- d. Describe the impact upon ground and surface water quality and recharge, including estimated phosphate and nitrate loading on groundwater and surface water from septic tanks, lawn fertilizer, and other activities within the site.

5.1.3.3 Vehicle Circulation System

- a. Project the number of motor vehicles to enter or depart the site per average day and during peak hours. Also state the number of motor vehicles to use streets adjacent to the site per average day and during peak hours. Such data shall be sufficient to enable the SPGA to evaluate (i) existing traffic on streets adjacent to or approaching the site, (ii) traffic generated or resulting from the site, and (iii) the impact of such additional traffic on all ways within and providing access to the site.
- b. Actual study results, a description of the study methodology, and the name, address, and telephone number of the person responsible for implementing the study, shall be attached to the DIS.

5.1.3.4 Support Systems

- a. Water Distribution: Discuss the water system proposed for the site, means of providing water for fire fighting, and any problems

unique to the site.

b. Sewage Disposal: Discuss the sewer system to be used, and evaluate impact of sewage disposal on the wastewater treatment facility.

c. Refuse Disposal: Discuss the location and type of facilities, the impact on existing Town refuse disposal capacity, hazardous materials requiring special precautions.

d. Protection Service: Discuss the distance to the fire station, police station, and emergency medical service, and the adequacy of existing equipment and manpower to service the proposed site.

e. Recreation: Discuss the distance to and type of public facilities to be used by the residents of the proposed site, and the type of private recreation facilities to be provided on the site.

5.1.3.5 Phasing.

Where development of the site will be phased over more than one [1] year, indicate the following:

a. Describe the method to be used during construction to control erosion and sedimentation through use of sediment basins, mulching, matting, temporary vegetation, or covering of soil stockpiled. Describe the approximate size and location of portion of the parcel to be cleared at any given time and the length of time of exposure.

b. Describe the phased construction, if any, of any required public improvements, and how such improvements are to be integrated into site development.

5.2 SPGA - Rules and Regulations

The SPGA shall adopt reasonable rules and regulations for the administration of this section, which may be amended from time to time. Such regulations shall include a schedule of fees, site construction requirements, inspection requirements, and owner / occupancy reporting requirements to satisfy compliance with the age restriction, as well as such other items as the SPGA deems necessary.

5.3 SPGA - Public Hearing

The SPGA shall hold a public hearing and shall file its decision with the Town Clerk as required by M.G.L., Ch.40A, §9.5.4 Approval.

The SPGA may grant a special permit for a senior housing community if it determines that all the requirements under the bylaw have been met and such use will not be detrimental to the public good. Upon receipt of the application and required plans, the SPGA shall transmit one copy each to the Board of Health and Conservation Commission. Within 45 days of their receipt of the application/plans, these agencies shall submit any recommendations to the SPGA. The SPGA shall act on applications according to the procedures specified in M.G.L., Ch.40A, §9.

Notice shall be provided of hearings in accordance with M.G.L., Ch.40A, §11.

The SPGA may impose special permit conditions as a condition of approval such as site construction requirements, inspection requirements, and owner / occupancy reporting requirements to satisfy compliance with the age restriction.

The SPGA may require additional conditions as it finds reasonably appropriate to safeguard the health, safety, and welfare of the existing neighborhoods and the Town of Upton or otherwise serve the purpose of this bylaw.

The SPGA may approve the special permit application with a condition of approval from the Board of Health and Conservation Commission.

5.5 Change in Plans After Grant of Special Permit. No change in any aspect of the approved plans shall be permitted unless approved in writing by the SPGA. A new or amended special permit will be required if the SPGA determines any proposed change to be substantial. The SPGA shall hold a public hearing if the proposed change is determined to be substantial, with the provisions of this bylaw.

No land for which a special permit for a senior housing community has been granted shall be further subdivided.

6.0 Optional Incentive Provisions

The SPGA may approve density bonuses pursuant to one or more of the following provisions, provided, however, that in no case shall the density bonus be greater than a 15% increase in the number of bedrooms permitted in the applicable senior housing community.

6.1 Affordable Option

A density bonus may be permitted when the proposed community provides affordable housing opportunities consistent with the Upton Local Housing Partnership Policy Plan. For each affordable housing unit provided under this section, four additional bedrooms may be permitted subject to the 15% limitation expressed in section 6.0. Affordable units shall be developed concurrently with the market rate units in the development. The affordable units must be subject to use restrictions of a substantial duration to ensure that the units remain available exclusively to persons with qualifying income.

6.2 Recreational Space Option

A density bonus may be permitted when the proposed community provide for public access to recreational facilities and/or recreational fields within the community or when they are deeded to the municipality. For every 5 acres of land that is donated to the municipality or open to public use, four additional bedrooms may be permitted subject to the 15% limitation expressed in section 6.0. Recreational space that is open to public use shall be accessible from a public way and adequate parking shall be provided to meet anticipated demand.

6.3 Open Space Option

A density bonus may be permitted when the proposed community provides additional open space. For every 5 acres of land that is donated to the municipality or land trust, four additional bedrooms may be permitted subject to the 15% limitation expressed in section 6.0.

6.4 Provision for off-site locations

The SPGA may accept the off-site location of affordable housing, recreational space, or open space for the purpose of satisfying the optional incentive provisions.

7.0 Standards for Independent Senior Housing

As used by this bylaw, Independent Senior Housing [ISH] means private residential dwelling units, individually equipped with a minimum of a kitchen, bedroom, bathroom and living area. Geared toward independently functioning adults, this housing typically does not offer on-site supportive services but is designed to be barrier free and should include emergency call features complemented by housing management and maintenance services.

7.1 Occupancy Restrictions

The following provisions are intended to ensure that the dwelling units in Independent Senior Housing are used as residences for

persons of fifty-five [55] years of age and older.

- a. Each dwelling unit in an ISH shall be subject to a recorded deed restriction limiting occupancy to at least one person 55 years of age or older.
- b. Individuals under the age of 18 or guests may not reside in a dwelling unit in an ISH for more than six [6] months in a twelve [12] month time period.
- c. In the event of the death of the qualifying occupant of a unit, or foreclosure or other involuntary transfer of a unit in an ISH, a two-year exemption shall be allowed to facilitate the transfer of the unit to another eligible household.

7.2 Site Dimensional Requirements

The tract of land for an ISH shall contain at least five [5] acres and shall have at least one hundred [100] feet of frontage on an existing Town accepted way. A 100ft-screened buffer zone consisting of landscaped or natural vegetation shall encompass the entire perimeter of the development site

Upon finding by the SPGA that a buffer zone of lesser width would be sufficient to visually screen and/or separate the ISH from adjacent property, the SPGA may waive and/or alter the buffer zone requirement. The SPGA may require no-cut easements, conservation restrictions or the like where the buffer zone has been reduced.

7.3 Density

The residential density in an ISH shall not exceed six bedrooms per acre of developable area, and shall contain no more than two hundred [200] bedrooms except when optional incentive provisions have been applied. For the purpose of this computation, the developable area shall be the total area of the tract, including the common land, but excluding all listed non-buildable areas as provided under section 7.4.

The total area of dwelling units footprints, garages, accessory buildings, and all other impervious surfaces shall not exceed 20% of the site area, except when optional incentive provisions have been applied.

7.4 Usable Land

Developable area shall be calculated by a registered civil engineer and/or registered land surveyor and shall not include any of the following.

- a. Land within a 100-year floodplain as defined by M.G.L., Ch.131, §40.
- b. Fresh water wetlands as defined by M.G.L., Ch.131, §40.
- c. Land having a slope greater than 20%.
- d. Land subject to conservation restrictions that prohibit development.
- e. Land subject to any local and/or state law or regulation, right of way, public or other restriction, which prohibits development.
- f. Land recorded with open space open restrictions.

7.5 Open Space

A minimum of 25% of the development site shall be dedicated to open space and shall be clearly delineated and defined on the "Overall Land Use Plan" of each application. It is the intention of this section that open space should generally occur as a single contiguous area of open space which shall retain those natural features of the site most worthy of preservation in their natural state. The minimum required area of Open Space shall consist of no more than 30% wetlands as defined in M.G.L. Ch.131, §40. Land comprising the buffer zone under section 7.2 shall not count toward this open space requirement.

7.6 Common Land

The common land shall be dedicated and used for conservation, recreation, park purposes, outdoor education, agriculture, horticulture or forestry, or for any combination of such use. Common land shall be planned as large and contiguous whenever possible. Common land may be set aside in more than one parcel provided that the size, shape, and location of such parcel are suitable for the designated use. Strips or narrow parcels of common land shall be permitted only when necessary for access, or if the SPGA finds that a vegetation buffer strip along the site's perimeter is appropriate and consistent with the purpose of the Senior Housing Community bylaw.

7.7 Recreational Space

Suitable recreational space for the ISH community should be provided. Such areas should be suitable for a site of an active recreational facility. Such recreational areas should be contiguous to the open space or may be separately located.

7.8 Building & Dwelling Requirements

In an ISH the following Building & Dwelling requirements shall apply:

- a. Dwelling units in an ISH may be attached, detached, or a combination of these types.
- b. No building shall contain more than eight [8] bedrooms.
- c. No dwelling unit shall contain more than two [2] bedrooms.
- d. Buildings shall not exceed 2-1/2 stories and/or thirty feet [30] in height.

In an ISH the following setbacks requirements shall apply.

- a. All buildings must be located a minimum of thirty feet [30] from other structures within the ISH.
- b. All building must be located a minimum of thirty feet [30] from an interior roadway and driveway, which are not considered accepted public way.
- c. All buildings must be located a minimum of one hundred feet [100] from any side or rear site lot line from any off-site private or public way.
- d. Upon finding by the SPGA that a setback of lesser width would be sufficient to visually screen and/or separate the ISH from adjacent property, the setback may be reduced. The SPGA may require no-cut easements, conservation restrictions or the like where the setback has been reduced.

What year was the inclusionary/incentive provision adopted?

2002

Have affordable units been developed through this zoning mechanism?

No Denise Smith, Clerk of the Planning Board, said that this month the Planning Board received its first application for Senior Housing.

(11/17/04)

Uxbridge

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

No

What year was the inclusionary/incentive provision adopted?

Have affordable units been developed through this zoning mechanism?

Wakefield

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

Yes According to Paul Reavis, Wakefield Town Planner, (7/1/04) for special permits in industrial and business zones, there is a requirement that up to 18% of the units be affordable. This requirement does not apply to standard subdivisions, only those in the industrial and business zones.

Section 190-32. Multifamily dwellings.

(6) The intent of this Subsection (6) is to increase the supply of housing in the Town of Wakefield that is permanently available to and affordable by low and moderate income households and to encourage a greater diversity of housing accommodations to meet the needs of families and other Wakefield residents; and developing and maintaining a satisfactory proportion of the Town's housing stock as affordable dwelling units. To that end, the Special Permit Granting Authority at the time of the granting of the special permit pursuant to § 190-32 may require the applicant to provide affordable dwelling units up to and including 18% of the total . number of dwelling units provided on the sites which is the subject of the § 190-32 application. Affordable dwelling units shall be defined as dwelling units which count toward the Town of Wakefield's Massachusetts General Laws, Chapter 4013 Subsidized Housing Inventory as the same may be amended from time to time. When the percentage calculation does not result in a whole number it shall be rounded to the nearest whole number, but not less than one. Thus if so required by the Special Permit Granting Authority,

(a) The applicant shall submit to the Special Permit Granting Authority, a use restriction or regulatory agreement that establishes an affordability restriction for the maximum period allowed by law for the designated affordable dwelling units. The applicant shall provide, when requested by the SPGA, (1) a copy of the application for a Local Initiative Project or similar program, acceptable to the SPGA, that allows the units be added to the town's subsidized housing inventory under Massachusetts General Laws, Chapter 40B, as amended from time to time; (2) a complete draft regulatory agreement; and (3) a letter stating the site has been preliminarily approved by the Department of Housing and Community Development or successor agency. This is in order to ensure the long-term affordability of the designated affordable dwelling units. The applicant shall submit proof to the Special Permit Granting Authority that the use restriction or regulatory agreement was recorded at the Registry of Deeds prior to obtaining any building permit for the project;

**Webmasters Note: The previous subsections, F(6) and F(6)(a), has been added as per an update approved at a town meeting held on 4/5/04.

LAND DEVELOPMENT ORDINANCE
Ver 3.0.43 The Land Use Ordinance of Wakefield
MIDDLESEX COUNTY, MASSACHUSETTS (amended 4/5/04)
www.ordinance.com

What year was the inclusionary/incentive provision adopted?

2002 According to Paul Reavis, Wakefield Town Planner, (7/1/04) the inclusionary zoning adopted in 2002.

Have affordable units been developed through this zoning mechanism?

Yes According to Paul Reavis, Wakefield Town Planner, (7/1/04) 16 affordable units have been built under the program.

Walpole

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

No

What year was the inclusionary/incentive provision adopted?

Have affordable units been developed through this zoning mechanism?

Waltham

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

Yes ARTICLE IX Affordable Housing
[Added 9-25-1991 by Ord. No. 27223; amended 9-25-1991 by Ord. No. 27224; 12-26-2000 by Ord. No. 29160)
Sec.9.1. Affordable housing provisions.

9.11 Purpose to assist in the development and maintenance of affordable housing in the City of Waltham

9.12. Applicability Compliance with affordable housing criteria shall be encouraged, but voluntary, for every proposed multifamily dwelling development which will contain eight or more dwelling units and which is not subject to a special permit for increase in intensity of use Compliance with affordable housing criteria shall be required for every proposed multifamily dwelling development which will contain eight or more dwelling units and which is subject to a special permit for increased intensity of use All proposed developments that have less than eight dwelling units shall be exempt from affordable housing requirements Any application for a building permit for a development that meets these requirements shall require a sign off by the Director of the Housing Department of the City of Waltham or, in the absence of the Director, the Assistant Director of the Housing Department before such building permit is issued Phased developments which will have eight or more dwelling units, regardless of the number of dwelling units per phase, when complying with the requirements of Section 9.1 may prorate said requirements to the number of units built per phase, and provided, further, that abutting developments owned by the same individual or firm or a subsidiary firm that are placed on subdivided lots, which subdivision has been recorded subsequent to the effective date of the adoption of this article and in such a way that the resulting number of units is fewer than eight units per lot shall, for the purpose of affordable housing requirements, be considered as one project An applicant who voluntarily chooses to obtain a density bonus under this section shall comply with Sections 913 through 918, inclusive.

9.13 Determination of affordable housing requirements. An applicant seeking a special permit from the City Council to build or rehabilitate a development which is subject to the affordable housing requirements of Section 9.1 shall meet with the WHPC prior to the special permit public hearing Within 14 days of said public hearing or within such further time as the City Council may allow, upon the request of the WHPC, said WHPC shall make recommendations to the City Council regarding the method of meeting affordable housing requirements consistent with Section 9.1 of this chapter. If the WHPC fails to make recommendations within the aforementioned time period, it shall be construed that the WHPC has no comment on the proposed project The City Council shall give due consideration to, but shall not be bound to accept, any recommendation of the WHPC and may choose to select a different method of meeting affordable housing requirements consistent with said Section 9.1 For developments not seeking a special permit, but which opt to comply with the affordable housing requirements of Section 9.1, the applicant shall meet with the WHPC before a building permit is issued and the WHPC may make recommendations regarding the method of meeting affordable housing requirements consistent with said Section 9.1 Where no recommendation is made by the WHPC, the Director of the Housing Department of the City of Waltham may make recommendations regarding the method of meeting affordable housing requirements consistent with said Section 9.1 For developments not seeking a special permit, the applicant shall select a method of meeting affordable housing requirements. consistent with said Section 9.1. The applicant shall give due consideration to, but shall not be bound to accept, any recommendations of the WHPC or Director of the Housing Department Under no circumstances shall the method of meeting the affordable housing requirement be inconsistent with said Section 9.1.

9.131 Displacement Where a proposed development which is subject to the provisions of Section 9.1 displaces any households which are earning less than 80% of the median income of households within the Standard Metropolitan Statistical Area that includes Waltham, as published by the United States Department of Commerce, or estimates of these income figures as prepared by the United States Department of Housing and Urban Development, these households shall be offered affordable dwelling units, up to the number of such units which are required to meet the affordable housing requirements applied to that particular development, and provided, further, that all replacement units must have at least the same number of bedrooms as the unit being replaced. If the instance arises that said income-eligible households are displaced, either temporarily or permanently, the developer will provide to the displaced household moving expenses, technical assistance in finding comparable units and financial assistance in the form of a one-time payment, upon displacement, that may be used as a security deposit and/or first or last month's rent deposit This payment shall be the equivalent of three times the monthly rent prior to displacement paid within 90 days of displacement. Priority for the location of the comparable units is

(a) In the same building (of a multi-unit structure).

(b) In the same neighborhood.

(c) In Waltham.

(d) In nearby communities.

Furthermore, if the instance arises that said income-eligible households are displaced and cannot be accommodated within the new development for whatever reason, said households shall be eligible for priority consideration for placement in any development within the jurisdiction of the WHPC Prior to the issuance of a certificate of occupancy for any unit, the Inspector of Buildings of the City of Waltham shall require the developer to provide documentary evidence that he has complied with the displacement provisions of Section 9 131

9.14 Methods of meeting affordable housing requirements The applicant shall provide affordable housing by one or more of the following methods or any combination thereof, as directed by the City Council or for projects not subject to a special permit, selected by the applicant. The City Council, in deciding which method or methods shall be used to provide said affordable housing, shall give due consideration to the written recommendations, if any, of the WHPC

9.141 Direct transfer The applicant shall provide, at no cost to the city, the specific number of dwelling units which equals 5% of the total number of dwelling units in the proposed development If, when applying the 5%, the resulting number of dwelling units includes a fraction of a unit, this fraction, if over 1/2, shall be rounded up to the next whole number However, in all instances, there shall be at least one dwelling unit required per project Full control over, and all rights to the dwelling units (or deeded ownership if the units are condominiums) shall be transferred to the Waltham Housing Authority or its designee within 30 days of the receipt, by the applicant, of a temporary or permanent occupancy permit Dwelling units selected for transfer shall equal or surpass the average size and quality of all units in the development

9.142. Assignment The applicant shall sell, lease or otherwise assign, at a specific reduced price, a specific number of dwelling units which equal 10% of the total number of dwelling units in the proposed development Resulting fractions of dwelling units shall be treated as indicated in Section 9.141. The reduced price shall be set by the requirements of the state or federal funding source or, where housing trust funds are used, by those regulations of the WHPC which are not inconsistent with federal or state requirements Where state, federal or local funds are not used, the price shall be consistent with price limits used by the United States Department of Housing and Urban Development (HUD) HOME program or successor programs targeted for households earning less than 80% of the median income within the Standard Metropolitan Statistical Area that includes Waltham All dwelling units assigned for use under this article shall be assigned for such use for 50 years or more; in no instance shall a temporary or fixed time period, other than 50 years or more, be allowed. The sale, lease or assignment shall occur within 30 days of the receipt of a temporary or permanent occupancy permit. If households are displaced at the end of the fifty-year affordable period, or within two years thereafter, the relocation restrictions in Section 9.131 shall apply Dwelling units selected for assignment shall equal or surpass the average size and quality of all units in the development Should a dwelling unit subject to rental limitations under Section 9.142 be converted to a condominium, the qualified tenant of the unit shall have first right of refusal to purchase the unit at a price conforming with limas established under Section 9.142 Should the tenant not choose to purchase the unit, either

(a) All the terms of the restrictions shall be made to apply to another equivalent and previously unrestricted unit in the project; or

(b) The sale price of the converted unit shall conform to price)units required for units sold under Section 9.142, and the unit shall be sold to a household eligible under Section 915, and said unit shall, upon its sale or transfer, be restricted by deed to remain affordable for a period not less than the original period of 50 years; or

(c) The converted unit shall be transferred without cost to the Waltham Housing Authority or its designee,

(d) The owner shall be required to pay to the WHPC Trust Fund, the entire fee in lieu of dwelling units calculated for the original project

9.143 Fee in lieu of dwelling units. The applicant shall provide a cash fee in lieu of on-site affordable housing dwelling units As the basis for determining the amount of the cash fee, the City Council or, for projects not subject to a special permit, the WHPC shall use the appropriate current year edition of Building Construction Cost Data, published by the R S. Means Company of Kingston, Massachusetts, or if such publication ceases to exist, an equivalent recognized construction cost publication The City Council or, for projects not subject to a special permit, the WHPC, shall calculate 10b of total development cost (TDC) by using total development cost estimates and, for construction, more specifically by using the relevant R.S.Means or equivalent data referenced above. The TDC shall comprise all development costs recognized under state, federal or local programs used. Where state, federal or local funds are not used, the TDC shall be consistent with development costs recognized under the HUD HOME program or successor programs targeted for households earning less than 80% of the median income within the Standard Metropolitan Statistical Area that includes Waltham. Should the building permit or special permit for the project expire before completion of the project, the fee may be adjusted to reflect updated TDC for the project. The resulting dollar value, rounded to whole dollars, shall be known as the "fee in lieu of dwelling units" ("fee") and shall be paid directly to the Waltham Housing Trust Fund The fee shall be pad prior to issuance of an occupancy permit issued pursuant to the special permit on the density bonus or, for a phased development, a part of the fee shall be paid in proportion to the percent of the development for winch each occupancy permit is being issued.

9.144 Purchase or construction of off-site dwelling units The WHPC shall be directed by the City Council to calculate the fee in lieu of dwelling units and use sad fee to purchase existing housing units in the City of Waltham or to build new housing units, off-site in the City of Waltham Ownership of units winch are purchased or built as affordable housing units shall be transferred to the Waltham Housing Authority or its designee within 30 days of the receipt by the applicant of a temporary or permanent occupancy permit for the applicant's original development. In order to ensure that the value of the purchased, rehabilitated or newly constructed housing, including rehabilitation costs where applicable, is of an equivalent value to said fee, the applicant shall be required to contract for an

independent appraisal of the housing units and to receive approval for all purchases and rehabilitation and other services from the WHPC, including WHPC approval of the firm which will conduct the appraisal. In addition, the appraisal firm shall be selected from a list provided by the Waltham Housing Authority. If the value of said housing units is less than the total amount of the fee, the applicant shall, at the time of the transfer of ownership of said housing to the Waltham Housing Authority, make a payment to the Waltham Housing Trust Fund of a sum of money which is equal to the full amount of the difference between the amount of the fee in lieu of dwelling units and the value of the purchased, rehabilitated or newly constructed housing.

9.15. Eligibility. Eligibility for housing units created by the provisions of Section 91 and its subsections shall be in accordance with the federal, state or local programs used. Where federal, state, or local funds are not used, eligibility shall be consistent with standards recognized under the HUD HOME program, or successor programs targeted for households earning less than 80% of the median income within the Standard Metropolitan Statistical Area that includes Waltham.

9.16 Waiver of traffic impact fee. The City Council may waive the traffic impact fee of a project subject to the affordable housing requirement if, after consultation with the City of Waltham Traffic Commission, it is determined that no intersection within 1/4 mile of the proposed project accommodating at least 500 vehicles during the peak hour will, as a direct result of the project, have an a.m. or p.m. peak hour level of service below LOS D.

9.17 Waiver of density restrictions. Developments not subject to a special permit voluntarily complying with affordable housing requirements by transferring units under Section 9.141 or assigning units under Section 9.142 may discount the floor area of the required affordable units and an equal amount of floor area of the by-right units from calculations pertaining to meeting restrictions on FAR-by-right in Section 41 of these zoning ordinances. In no event shall an applicant receive a density bonus, for purposes of the FAR calculation, greater than the floor area attributable to 10% of the total number of dwelling units in the project where a transfer pursuant to Section 9.141 occurs or a fee is paid pursuant to Section 9.143. In no event shall an applicant receive a density bonus for purposes of the FAR calculation, greater than the floor area attributable to 20% of the total number of dwelling units in the project where any units are assigned pursuant to Section 9.142 or 9.144.

9.18 Enforcement. Any project subject to providing affordable housing under this article shall include the requirements of this article in a deed restriction on the subject dwellings, approved by the Director of the Housing Department of the City of Waltham. Such deed restriction is to remain in effect for the entire term of affordability required by this article, and shall survive every sale of the property. The owner of dwellings subject to said deed restriction shall make annual reports to the Director of the Housing Department detailing compliance with the terms of this article, and shall submit to said Director reasonable monitoring requirements. The Director of the Housing Department shall notify the Inspector of Buildings of the City of Waltham of any failure to comply with this article. Said owner shall correct within 30 days of notification by the Inspector of Buildings. Where the failure is not corrected to the satisfaction of said Inspector of Buildings, the owner shall be required to pay to the WHPC Trust Fund the prorata share of the "fee in lieu of dwelling units" calculated for the original project attributable to the unit or units in violation. If the income of a household renting a dwelling unit subject to price limitations under Section 9.142 increases beyond income limits allowed by this article, the household's rent may be increased above restricted limits, at the end of the term of its current lease, only after the restrictions and limitations are alternately applied to another equivalent and previously unrestricted unit in the same project, and provided to another eligible household.

What year was the inclusionary/incentive provision adopted?

1991

Have affordable units been developed through this zoning mechanism?

Watertown

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

Yes

ZONING ORDINANCE

Watertown Planning Board

Watertown, Massachusetts

ARTICLE V

SECTION 5.07 AFFORDABLE HOUSING REQUIREMENTS

(a) Intent and Purpose

The purpose of this Section 5.07 is to promote the public health, safety and welfare by encouraging the expansion and upgrading of the Town housing stock and expressly its affordable housing stock while accommodating the expansion of housing opportunities in the Town; to provide for a full range of housing choice for households of all incomes, ages, and sizes; to prevent the displacement of low to moderate income Watertown residents; to increase the production of affordable housing units to meet existing and anticipated employment needs within the Town; to provide a mechanism by which conventional residential development can contribute in a direct way to increasing the supply of affordable housing and to establish standards and guidelines in order to implement the foregoing.

(b) Scope, Exclusions and Minimum Requirements

To provide for affordable housing units as defined by this section in the R.75, R1.2, I-3, RO and

ALOD districts, the Board of Appeals may grant a special permit under Section 9.05. The provisions of this Section 5.07 shall apply in the R.75, R1.2 and I-3 zoning districts to all residential developments seeking special permits to develop more than five (5) units, whether new construction or adaptive reuse. Developments may not be segmented to avoid compliance with these provisions. For projects resulting in five (5) or fewer dwelling units in the R.75, R1.2 and I-3 Districts no affordable housing requirements shall apply. However, for all projects subject to affordable housing requirements, a minimum of at least one dwelling unit shall be provided for affordable housing purposes.

(c) Requirements

(1) The provisions of this Article shall apply to all residential and mixed use developments seeking special permits with site plan review to develop more than five (5) dwelling units. The Petitioner shall provide ten percent (10%) of the total units in the subject development as affordable housing units. Nothing in this Section shall preclude a developer from providing more affordable units than the minimum ten percent (10%). In determining a total number of affordable units required, calculation of a fractional unit of .5 or more shall be regarded as a whole unit.

(continued - pasted from ordinance.com)

(2) Affordable units shall be available for rental or ownership, and affordable to households earning on average no more than 80% of the area median income, as defined by the U.S. Department of Housing and Urban Development. Affordability is defined as no more than 30% of household income paid for housing costs. For a rental unit, 30% of household income can be paid for rent. For a unit for sale, 30% of household income can be paid for mortgage plus taxes, insurance, and condo fees, assuming a 10% downpayment.

(3) In general, affordable units provided under the terms of this Section shall be provided on site in the subject residential or mixed use development. However, in certain circumstances, the Zoning Board of Appeals may authorize or require that affordable housing units be provided off-site, or that an alternative method of compliance be used, subject to a finding that it is in the best interest of the Town to do so.

(A) Off-site Location: Affordable units may be located on an alternate site in Watertown, suitable for residential use. Off-site units shall be comparable in all respects to the market rate units being created, and equal to the number of units otherwise required.

(B) Cash Payment: Developers may make a cash payment to the Town, through its Affordable Housing Trust Fund or its designee. The cash payment, or equivalent value in land or buildings, shall be equal to the difference between the market sales price for a comparable unit, and the purchase price affordable to a household with an income at 80% of the Boston area median income for each unit.

(d) General Provisions

(1) Sales prices, resale prices, initial rents and rent increases for the affordable units shall be permanently restricted, to the extent legally permissible, to ensure long-term affordability. Affordability restrictions shall be embodied in applicable deed covenants, contractual agreements, land trust arrangements and/or other mechanisms to ensure compliance. Standards of affordability will be set and revised from time to time by the Watertown Housing Partnership in accordance with Federal and state standards.

(2) Affordable units shall be dispersed throughout the building(s) and shall be compatible with and generally comparable to market-rate units in terms of location, quality and character, room size and external appearance. In addition, the bedroom distribution in the affordable units shall be proportionate to the bedroom distribution in the development as a whole.

(3) The Watertown Housing Partnership shall, in writing, provide the applicant with their decision concerning affordable housing requirements no later than thirty (30) days after the public hearing. If no decision is provided, the Board of Appeals shall determine the affordable housing requirements.

(4) In no instance shall any special permit approval create less than one affordable housing unit, and for purposes of this Zoning Ordinance any calculation of required affordable housing units shall result in the fractional or decimal equivalent of one-half or above shall be increased to the next highest whole number.

(5) The applicant shall certify in writing to the Board of Appeals that they have a signed agreement with the Watertown Housing Partnership as to the method of discharging their affordable housing requirements before the Board of Appeals may grant a special permit for more than five (5) residential units. Further, any dwelling units for affordable housing resulting from this agreement shall be provided prior to of the granting of any temporary or permanent occupancy permit associated with the project.

What year was the inclusionary/incentive provision adopted?

2000 ZONING ORDINANCE
Watertown Planning Board
Watertown, Massachusetts
APPENDIX I LEGISLATIVE CHRONOLOGY

Date of Town Council Approval: 4/11/00

Date of Legal Notice: 3/23/00

The dates apply to both the Affordable Housing Provision, as well as, Density Bonus.

Have affordable units been developed through this zoning mechanism?

Yes According to Ms. Crain, Watertown's Senior Planner, (7/2/04) 13 affordable units are under construction.

Wayland

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

Yes Code of the Town of Wayland, Massachusetts, Section 1904, 2004, 2106, and 2204 (June 25, 2004)

Planned Development District:

1904.23. Affordable dwelling units. [Added 5-8-1989 ATM by Art. 17]

1904.23.1. As a condition of a special permit, the ZBA shall require, on site and within the development, the provision of low-income housing units amounting to at least 10%, and moderate-income units amounting to at least 5%, of the development's total number of dwelling units. The low- and moderate-income units to be provided shall meet the standard for low- and moderate-income housing established by the Massachusetts Department of Housing and Community Development and the Federal Department of Housing and Urban Development with regard to size, quality and characteristics. The distribution of unit sizes and determination of occupancy characteristics (i.e., individual or family) shall be made by the ZBA, after consultation with the Wayland Housing Authority, at the time of the granting of the permit.

1904.23.2. Any such low- and moderate-income dwelling unit shall be sold, or leased in perpetuity, on terms affordable to households or individuals with incomes not exceeding those defined as "low income" by the Federal Department of Housing and Urban Development and the Massachusetts Department of Housing and Community Development, at the election of the Wayland Housing Authority, to the Wayland Housing Authority. Said Authority shall have the exclusive option to purchase or lease the unit(s).

1904.23.3. The deed to units conveyed to the Wayland Housing Authority shall provide good and clear record and marketable title, free from mortgages and any taxes, betterments, Town service fees or similar financial encumbrances then due and owing.

1904.23.4. Such low- and moderate-income units shall be conveyed or leased prior to the issuance of occupancy permits for 25% of the project's total number of units.

1904.23.5. In determining the number of units to be provided in accordance with § 198-1904.23.2 through 1904.23.4 above, a fractional unit of 1/2 or more shall be regarded as a whole unit; less shall be deemed not to impose a required unit.

Southeast Wayland-Cochituate Planning District :

2004.3. Affordability.

2004.3.1. The development plan shall provide that at least 10% of the dwelling units to be constructed will be made available at affordable prices to home buyers and that the deed of these dwelling units will contain a mechanism or mechanisms to ensure future sales at reduced prices for a period of not less than 99 years. The development plan shall also provide that the Town of Wayland shall have a right of first refusal to purchase the dwelling units made available at affordable prices at the expiration of the aforementioned ninety-nine-year period. Dwelling units to be sold at affordable prices shall be integrated into the overall development in a manner acceptable to the Planning Board to prevent physical segregation of such units.

AFFORDABLE PRICES -- Those prices set by the Massachusetts Housing Finance Agency and the Massachusetts Housing Partnership within the Massachusetts Department of Housing and Community Development for the sale of housing units to low- and moderate-income persons, as defined in the applicable Massachusetts Housing Finance Agency statute and regulations.

Senior and Family Housing Overlay District:

2106.1.15. Affordable units.

2106.1.15.1. The applicant is encouraged to provide dwelling units at prices affordable to persons or families of low or moderate income. Such affordable dwelling units shall be integrated into the overall development so as to prevent the physical segregation of such units.

Cochituate Interim Planning Overlay District:

2204.1.3. Dwelling units for low- and/or moderate-income families or individuals as set forth in MGL c. 40B.

From the Wayland Comprehensive Housing Plan 2005, page 28:

Inclusionary Zoning Bylaw

In order to expand its affordable housing inventory, Wayland needs to begin to encourage or

require affordable units as part of any new housing development other than very small projects. Otherwise, the Town will fall further behind in meeting its 10% affordable housing goal each time a new subdivision is built.

Under state law, a town cannot require a developer to provide affordable housing as part of an as-of-right housing development. For this reason, Wayland should adopt an Inclusionary Zoning Bylaw to strongly encourage the provision of affordable housing. This system would work by first reducing the as-of-right density in the Residence zones (i.e., increasing the minimum lot size). Then, the Town would offer incentives to build at a higher density in exchange for providing affordable housing or making a contribution to the Town's affordable housing fund. Single-lot developments and two-lot subdivisions on pre-existing properties would be exempted from the affordable housing incentive program and could be built at the current allowed density. Table 7-1 illustrates how this incentive program might work. It should be noted that developments of less than five acres that do not qualify for the small project exemption could take advantage of the incentive provisions by building a "standard conservation cluster." Since the open space requirement would be waived on developments smaller than five acres, such small developments would only need to provide the affordable housing in order to take advantage of the density bonus.

The proposed incentives should be implemented through changes to the Town's Conservation Cluster Development Bylaw as well as adoption of a new Affordable Housing Bylaw. This new Affordable Housing Bylaw should specify how the affordable housing must be developed, priced, and managed. To count toward the Town's Chapter 40B affordable housing inventory, units must be affordable to families earning no more than 80 percent of the regional median income. As of 2003, this would equate to a monthly rent of about \$1,480 or a home price of about \$209,000 for a family earning up to \$59,200. Since this definition of "affordable" is still well above the price range of many who wish to live in Wayland (e.g., Town employees, recent graduates, or senior citizens on a fixed income), the Town may wish to define its "affordable" more strictly for the purposes of the affordable housing incentive program by using median household income rather than median family income.¹⁰ The Affordable Housing Bylaw should also require a deed restriction running with the property that limits resale price in order to ensure that the designated affordable units remain affordable for as long as is legally possible.

For many developments, fractional affordable units will be required to take advantage of the affordable housing incentives. In these cases, the applicant should be allowed either to round up to the next highest number of affordable units or to make a payment-in-lieu to the Town's affordable housing fund for any fractional units. The payment-in-lieu should be set ahead of time by the Planning Board, but may be changed from time to time. The payment-in-lieu of an affordable unit should be based on the additional marginal profit that developers would earn if they were able to build a market-rate unit in place of an affordable unit.¹¹

The Town should carefully consider whether to allow a payment-in-lieu for fractional units only, or for all required affordable units. If the Town allowed a payment-in-lieu for all required affordable units, it might actually be able to create or preserve more affordable units than by requiring the developer to build the affordable units himself. This is because the Town can stretch these funds by matching them with state and federal subsidies, assistance from nonprofit groups, free or low-cost Town land, and a streamlined permitting process (for example, through the Local Initiative Program¹²). On the other hand, as buildable land becomes increasingly scarce in Wayland, it may become more and more difficult for the Town to find a place to build affordable housing, even if it has funds to do so.

What year was the inclusionary/incentive provision adopted?

1989 The affordability clauses were added to the provisions for Planned Development Districts in 1989.

Have affordable units been developed through this zoning mechanism?

No Wayland Comprehensive Housing Plan, 2005, page 25:

"Finally, the Planned Development special permit includes a provision requiring 10 percent of the units be set-aside for low-income families and 5 percent for moderate-income families. However, this affordable housing provision is relatively new and does not apply to the existing and already permitted developments."

Wellesley

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

Yes Meghan Conlon, Planner, (7/27/04) said that Wellesley created an inclusionary zoning bylaw in 2004. She said she would email the text to the researcher. The program is mandatory, and requirements can be met by construction or giving money to a fund.

Email from Meghan Conlon:

I have attached a word document for your review. This motion was approved in April at Town Meeting and subsequently has been approved by the Attorney General.

Meghan Conlon
Town Planner
Wellesley Planning Department
mconlon@ci.wellesley.ma.us
781.431.1019 ext. 234

Article: 38

Motion:

That the Zoning Bylaw be amended by establishing a new SECTION XVIB. INCLUSIONARY ZONING to read as follows:

SECTION XVIB. INCLUSIONARY ZONING.

A. Purpose - 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 Projects of Significant Impact under SECTION XVIA. SITE PLAN APPROVAL in BUSINESS DISTRICTS, BUSINESS DISTRICTS A, INDUSTRIAL DISTRICTS, INDUSTRIAL DISTRICTS A, and WELLESLEY SQUARE COMMERCIAL DISTRICT.

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 B. Applicability, 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. .20 Assisted Units per each Dwelling Unit in the project.

Both of 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 Part D., subpart 3. below.

D. Alternatives to Satisfy Assisted Unit Ratio

The following alternatives may be used to satisfy the requirements of Part C., subparts 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 account established by the Wellesley Housing Development Corporation pursuant to Chapter 311 of the Acts of 1998 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 part C., subparts 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 Part D., subpart 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 Part 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 Part D., subpart 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 Massachusetts Department of Housing and Community Development (DHCD) at 760 CMR 45.00 or any successor regulations or program of DHCD 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 Wellesley Housing Development Corporation.
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.

and by adding a new clause E. to each of the following districts: SECTION XI. BUSINESS DISTRICTS., SECTION XII. BUSINESS DISTRICTS A., SECTION XIII. INDUSTRIAL DISTRICTS., SECTION XIV. INDUSTRIAL DISTRICTS A., and, SECTION IXC. WELLESLEY SQUARE COMMERCIAL DISTRICT. to read substantially as follows:

E. INCLUSIONARY ZONING: The provisions of SECTION XVIB. INCLUSIONARY ZONING shall apply.

What year was the inclusionary/incentive provision adopted?

2004

Have affordable units been developed through this zoning mechanism?

No Meghan Conlon, Planner, told researcher that the program is new (2004) and has not yet been triggered.

Wenham

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

Yes Wenham has inclusionary zoning in Residential Open Space Communities district.

Town of Wenham Zoning Bylaw, Section XVIII, (Adopted 1974, Last Amended 2000).

"F. Inclusionary Housing Standards

1. Applicants seeking to develop ROSC's with ten (10) or more lots shall provide Affordable Units (defined in subsection F.2 below), the number of which shall be a minimum equal to ten percent (10%) of the lots in the ROSC.

a. In determining the required number of Affordable Units, a fraction of 0.5 or more shall be regarded as a whole unit; a fraction of less than 0.5 shall not be regarded as a unit.

b. The Affordable Units shall be provided on site unless the applicant demonstrates to the satisfaction of the Planning Board that

the provision of Affordable Units off site will further the public interest in that the proposed Affordable Units will help meet the housing needs of the Town.

2. Affordable Units are those units which may be purchased or rented by persons or households earning less than on average eighty percent (80%), but in no event more than one hundred ten percent (110%) of the regional median household income.

a. The Affordable Units shall comply with the Regulations concerning M.G.L. Chapter 40B (760 CMR 45.00) as they may be amended from time to time, unless the applicant demonstrates to the Planning Board that it is not feasible to do so.

3. The applicant shall subject the property to restrictions necessary to ensure that the Affordable Units will remain affordable, the form and substance of the restriction to be subject to approval by the Planning Board."

This was confirmed by Kathy Tuell, permitting coordinator in Wenham, during phone interview.

Town of Wenham Zoning Bylaw, Section XVII, (Adopted 1974, Last Amended 2000).

4. An Elder Housing Incentive Development consisting of Multi-Family residences for the Elderly together on the same lot with non-restricted Multi-Family residences. The Multi-Family residences for the Elderly shall constitute at least thirty percent (30%) of the total number of residences developed on the lot, and such Multi-Family residences for the Elderly shall be organized and controlled as provided in subsections A. (1) and (2) above. (As amended 8/19/87 and 9/13/89)

5. In exchange for an increase in density above that which is permitted as a matter of right in the underlying zone, the applicant shall provide that at least fifteen percent (15%) of the residences in the Elder Housing Incentive Development shall be available to low and moderate income households in accordance with M.G.L., c. 40B and its implementing regulations as they may from time to time be amended. (As amended 11/13/90)."

What year was the inclusionary/incentive provision adopted?

1990 Town of Wenham Zoning Bylaw, Section XVIII, (Adopted 1974, Last Amended 2000).

Section XVIII - Residential Open Space Communities
(As adopted 11/13/90)

Have affordable units been developed through this zoning mechanism?

Yes According to Kathy Tuell, permitting coordinator in Wenham, (7/14/04), 12 affordable units have been built in the last six years as a part of the ROSC zoning.

West Boylston

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

No Planning Board Secretary Susan Abramsom (1/4/05) said that inclusionary zoning is a key issue for the planning board. The committee drafting West Boylston's master plan would really like to see it happen and the planning board will meet in February of 2005 to discuss amending the zoning the bylaw.

What year was the inclusionary/incentive provision adopted?

Have affordable units been developed through this zoning mechanism?

West Bridgewater

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

No

What year was the inclusionary/incentive provision adopted?

Have affordable units been developed through this zoning mechanism?

West Newbury

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

Yes The only mention of affordable housing is within OSPD bylaw which allows for density bonuses for every 2 dwelling units restricted to occupancy for a period of not less than fifteen (15) years by persons or families who qualify as low or moderate income, one (1) dwelling unit may be added as a density bonus.

West Newbury Zoning Bylaw (Revised 2003)

6.B.13. Increases in Permissible Density.

The Planning Board may award a density bonus to increase the number of dwelling units beyond the Basic Maximum Number. The density bonus for the OSPD shall not, in the aggregate, exceed fifty percent (50%) of the Basic Maximum Number. Computations shall be rounded to the lowest number. A density bonus may be awarded in the following circumstances:

a. For each additional ten percent (10%) of the site (over and above the required 50%) set aside as open space, a bonus of five percent (5%) of the Basic Maximum Number may be awarded; provided, however, that this density bonus shall not exceed 10% of the Basic Maximum Number.

b. For every two (2) dwelling units restricted to occupancy by person over the age of fifty-five, one (1) dwelling unit may be added as a density bonus; provided, however, that this density bonus shall not exceed 10% of the Basic Maximum Number.

c. For every two (2) dwelling units restricted to occupancy for a period of not less than fifteen (15) years by persons or families who qualify as low or moderate income, as those terms are defined for the area by the Commonwealth's Department of Housing and Community Development, one (1) dwelling unit may be added as a density bonus; provided, however, that this density bonus shall not exceed 10% of the Basic Maximum Number.

**Webmasters Note: The previous section 6.B has been added as per Case No. 1860 approved at special town meeting 10/29/01.

What year was the inclusionary/incentive provision adopted?

Have affordable units been developed through this zoning mechanism?

Westborough

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

No

What year was the inclusionary/incentive provision adopted?

Have affordable units been developed through this zoning mechanism?

Westford

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

Yes Inclusionary provisions as part of flexible zoning:

7.2 FLEXIBLE DEVELOPMENT

7.2.8 Affordable Component. As a condition of the grant of any special permit for a Flexible Development, a minimum of fifteen (15) percent of the total number of dwelling units shall be restricted for a period not less than thirty (30) years to people/persons with families who meet or qualify under this Bylaw's definition of low, moderate, or median income. The thirty (30) year restriction shall be

approved as to form by legal counsel to the Planning Board, and a right of first refusal upon the transfer of such restricted units shall be granted to the Westford Housing Authority for a period not less than 120 days after notice thereof The affordable component shall be divided as follows

- 1 Five (5) percent of the units shall be affordable to persons or families qualifying as low income,
- 2 Five (5) percent of the units shall be affordable to persons or families qualifying as moderate income, and
- 3 Five (5) percent of the units shall be affordable to persons or families qualifying as median income

When computing the number of affordable units; the number will be rounded to the next lowest integer.

There is also an affordability component in the Senior Residential Multifamily Overlay:

8.4 SENIOR RESIDENTIAL MULTIFAMILY OVERLAY DISTRICT (SRMOD)

15 Affordable Units. As part of the site plan approval, a minimum of fifteen (15%) of the total number of dwelling units shall be restricted for a period not less than thirty (30) years in the following manner

- a 5% of the units shall be affordable to persons or families qualifying as low income,
- b 5% of the units shall be affordable to persons or families qualifying as moderate income, and
- c 5% of the units shall be affordable to persons or families qualifying as median income

The thirty year restriction shall be approved as to form by legal counsel to the Planning Board, and a right of first refusal upon the transfer of such restricted units shall be granted to the Westford Housing Authority for a period not less than 120 days after notice thereof

Affordable units shall be integrated into the overall development of the SRMD so as to prevent the physical segregation of such units The Applicant shall be encouraged to seek designation of the units referenced in paragraphs a and b, above, as affordable units which qualify as part of the subsidized housing inventory as approved and complied by the Department of Housing and Community Development (DHCD) The Planning Board may require that the Applicant affirmatively take steps to utilize the Westford Housing Authority, a public agency, a nonprofit agency, limited dividend organization, or other appropriate entity, and through a Local Initiative Program Petition or other similar mechanism or program, cause application to be made to the DHCD, so as to timely furnish all forms and information necessary to promote the designation of those units referenced in paragraphs a and b, above, as affordable units qualifying as part of the subsidized housing inventory The Planning Board may require submission of application, forms and appropriate information to the DHCD as a condition of approval

8.5 MILL CONVERSION OVERLAY DISTRICT (MCO)

8.5.13 Affordable Dwelling Units. As a condition of the grant of any special permit for a MCP, a minimum of fifteen (15%) of the total number of dwelling units shall be restricted for a period not less than thirty (30) years in the following manner

- 1 5% of the units shall be affordable to persons or families qualifying as low income, and
- 2 5% of the units shall be affordable to persons or families qualifying as moderate income, and
- 3 5% of the units shall be affordable to persons or families qualifying as median income

4 The thirty year restriction shall be approved as to form by legal counsel to the Planning Board, and a right of first refusal upon the transfer of such restricted units shall be granted to the Westford Housing Authority for a period not less than 120 days after notice thereof

5 Affordable units shall be integrated into the overall development of the MCP so as to prevent the physical segregation of such units

6 The Applicant shall be encouraged to seek designation of the units referenced in paragraphs 8 5 13 1 and 8 5 13 2 as affordable units which qualify as part of the subsidized housing inventory as approved and complied by the Department of Housing and Community Development (DHCD) The Planning Board may require that the Applicant affirmatively take steps to utilize the Westford Housing Authority, a public agency, a non-profit agency, limited dividend organization, or other appropriate entity, and through a Local Initiative Program Petition or other similar mechanism or program, cause application to be made to the DHCD, so as to timely furnish all forms and information necessary to promote the designation of those units referenced in said paragraphs as affordable units qualifying as part of the subsidized housing inventory The Planning Board may require submission of application, forms and appropriate information to the DHCD as a condition of approval

From definitions:

AFFORDABLE TO PERSONS OR FAMILIES QUALIFYING AS LOW INCOME Affordable to persons in the Westford area under the applicable guidelines of the Commonwealth's Department of Housing and Community Development earning 50% or less of the median income

AFFORDABLE TO PERSONS OR FAMILIES QUALIFYING AS MEDIAN INCOME Affordable to persons in the Westford area under the applicable guidelines of the Commonwealth's Department of Housing and Community Development earning 120% or less but more than 80% of the median income

AFFORDABLE TO PERSONS OR FAMILIES QUALIFYING AS MODERATE INCOME Affordable to persons in the Westford area under the applicable guidelines of the Commonwealth's Department of Housing and Community Development earning 80% or less but more than 50% of the median income

AFFORDABLE UNIT A unit sold or leased at a price affordable to persons earning not more than 80% of the area median income as determined by the Massachusetts Department of Housing and Community Development Such units shall be restricted for a period of not less than thirty (30) years

What year was the inclusionary/incentive provision adopted?

Have affordable units been developed through this zoning mechanism?

Weston

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

No Survey received 3/22/05 from Weston notes: "Considering @ 2005 TM"

What year was the inclusionary/incentive provision adopted?

Have affordable units been developed through this zoning mechanism?

Westwood

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

Yes 2.11 Affordable Housing Dwelling units available at a cost of no more than thirty (30) percent of gross household income to households at or below eighty (80) percent of the Boston PMSA median income as most recently reported by the U.S. Housing and Urban Development (HUD), including units listed under M.G.L Chapter 40B and the State's Local Initiative Program.

8.5 MAJOR RESIDENTIAL DEVELOPMENT (MRD)

8.5.13 Incentive Units. The Planning Board may approve a MRD containing more than the maximum number of dwelling units based upon the following. The percentage increase over the maximum number of dwelling units allowed shall be equal to the total of the incentives earned under Section 8.5.13.1 and Section 8.5.13.2. An Applicant seeking any of these incentives shall submit calculations and any other documentation necessary to demonstrate qualification for the incentive. In no event shall the Planning Board allow an increase to the extent that the nonwetland lot area in the entire development is reduced below the following:

SRC District: 27,000 square feet per dwelling unit;

SRE District: 45,000 square feet per dwelling unit;

WRPOD: 40,000 square feet per dwelling unit;

Other locations: 10,000 square feet per dwelling unit.

8.5.13.1 Objective: Encourage diversity of dwelling type
Incentive equals 0.5 times the percentage of all dwelling units legally reserved for persons over the age of fifty-five (55).

8.5.13.2 Objective: Facilitate economic diversity
Page 8-11

Westwood Zoning Bylaw w Revised through May 10, 2004

Incentive equals 1.5 times the percentage of all dwelling units legally reserved as Affordable Housing and 1.0 times the percentage of all dwelling units legally reserved as Moderate Income Housing, if complying with special permit stipulations regarding permanence of affordability, resident selection, timing of provision of affordable and moderate income units and location of affordable and moderate income units within the MRD.

What year was the inclusionary/incentive provision adopted?

According to Diane Beecham, town planner, Westwood created its rule on inclusionary zoning in the early 1990's. (6/23/04)

Have affordable units been developed through this zoning mechanism?

Yes According to Diane Beecham, there have been 386 units of affordable housing built. A large portion of the units are elderly units.

There were two developments age restricted: one development had 180 units, the other 156 units. One development was 55+, the other 62+.

In addition, Westwood also created affordable housing with single family detached homes. One development had 100 units, with 25 affordable units. The other development had 56 units, with 14% affordable housing.

Weymouth

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

No

What year was the inclusionary/incentive provision adopted?

Have affordable units been developed through this zoning mechanism?

Whitman

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

No

What year was the inclusionary/incentive provision adopted?

Have affordable units been developed through this zoning mechanism?

Wilmington

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

Yes Wilmington Zoning Bylaw

9.8 Affordable Housing Density Bonus

9.8.1 For all Over 55 Housing Developments, the total number of allowable dwelling units may be increased by 25% if the applicant designates at least 25% of the total number of units for use as affordable housing.

9.8.2 Subject to Planning Board approval, an applicant for an Over 55 Housing special permit may utilize an available state or federal assistance program, or may choose to meet the affordable housing requirements by utilizing income and asset standards, and by establishing sales prices, entry fees, condominium fees and other costs that are consistent with available affordable housing assistance programs.

9.8.3 Over 55 Affordable Housing Units shall be maintained as affordable housing units for the life of the Over 55 Housing Development. Each Affordable Housing Unit shall be sold to its initial and all subsequent buyers subject to deed riders, restrictive covenants, contractual agreements or other mechanisms restricting the use and occupancy, sales prices, resale prices and other cost factors to ensure their long term affordability. These restrictions shall be in place for such maximum time as may be permitted under applicable state laws governing such restrictions. They shall be enforceable and renewable by the Town of Wilmington through standard procedures provided by applicable law.

9.8.3.1 The restrictions shall contain a right of first refusal to the Town of Wilmington or its designees at the restricted resale value, and a requirement that the owner provides notice of such right of refusal to the Town of Wilmington or its designee prior to selling the affordable unit. The town or its designee shall have 90 days to exercise the right of first refusal.

9.8.3.2 Nothing in this section shall be construed to cause eviction of an owner due to loss of his/her income status during the time of ownership. Rather the restrictions governing an affordable unit shall be enforced upon resale of the affordable unit. The mechanisms and remedies to enforce the restrictions governing an affordable unit shall be set forth in its deed restrictions.

9.8.3.3 All contractual agreements with the Town of Wilmington and other documents necessary to ensure the long term affordability of an affordable housing unit shall be executed prior to the issuance of any building permit for it.

9.8.4 Location

Affordable units shall be dispersed throughout the development to ensure a true mix of market-rate and affordable units. The exterior of affordable units shall be generally indistinguishable from market-rate units.

9.8.5 Local preference

Unless otherwise regulated by an applicable federal or state agency or law, at least 70% of the affordable units shall be initially offered to Wilmington residents. For the purposes of this section, "Wilmington residents" shall be defined as an employee of the Town of Wilmington, a current Wilmington resident, or the parent, child, sibling, spouse, aunt, uncle, nephew, niece, grandparent or great grandparent of a current Wilmington resident.

9.8.5.1 Residency shall be established through Town Clerk certification based on the Town Census, voter registration, or other acceptable evidence.

9.8.5.2 These restrictions shall be in force for 120 days from the date of the first offering of the sale of a particular affordable housing unit.

9.8.5.3 The developer shall submit a marketing plan to the Planning Board or its designee for approval to ensure a diligent effort is made to locate eligible purchasers for the affordable units who meet the local preference criteria and the applicable income requirements.

What year was the inclusionary/incentive provision adopted?

2003 Survey received from Wilmington on 4/11/05 marks the answer: 2003.

Have affordable units been developed through this zoning mechanism?

No Survey received from Wilmington on 4/11/05 marks the answer: "No"

Winchester

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

Yes Wichester Zoning Bylaw (2003)

b. In the Multiple Family Residential District A (RA-120) the allowed density shall be three (3) dwelling units per acre. A maximum of eight (8) units per acre may be allowed by special permit in conformance with Section 6.29 Affordable Housing Incentives.

Apartment houses restricted by law to serve elderly citizens may reduce the above requirements as follows:

2.500 sq. ft. of lot area per dwelling unit containing one room used for sleeping.

3.000 sq. ft. of lot area per dwelling with two such rooms.

c. In the Apartment District (RB-20) no project shall exceed a density of 20 dwelling units per acre; a maximum of 50 dwelling units per acre may be allowed by special permit in conformance with Section 6.29 Affordable Housing Incentives. The lot area required in the RB-20 district for any new building and the lot area required in the RB-20 district in determining lot area per dwelling unit for any new building shall not include any part of a lot that is required by any other conforming or non-conforming building or use to comply with the requirements of this by-law, or was required by the applicable dimensional requirements prior to the effective date the land was placed in the RB-20 district.

d. In the Planned Residential District (PRD) the density of dwelling units shall not exceed two units per acre unless the applicant designates at least 15% of the units above the two units per acre standard for use in conjunction with one or more state or federal housing assistance programs; see Section 6.29C subparts 1, 2 and 3 for a complete description of the required affordable housing criteria and procedures. In no instance shall the total number of dwelling units exceed a density of 3 dwelling units per acre in any PRD special permit project.

6.29 Affordable Housing Incentives

In order to assist in the provision of affordable housing in Winchester, the Board of Appeals may grant a special permit consistent with the criteria established in Sections 8.5 and 8.7 of this bylaw to increase the density of projects in the RB-20, RA-120, PRD and Multiple Development use districts.

A. RB-20 District

The Board of Appeals may grant an increase in density above the allowed maximum of 20 dwelling units per acre to a maximum special permit density of fifty units per acre given the following conditions:

1. The applicant must designate at least 30% of the total number of units for use in conjunction with one or more state or federal housing assistance programs. For purposes of this bylaw, 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 whole number. The applicant shall be eligible to receive compensation for all designated units commensurate with the state or federal program(s) employed. However, given an agreement between the applicant and the Planning Board a specific number of units, but less than the 30% required as noted above, can be transferred directly to the Housing Authority for affordable housing purposes.

2. The applicant shall certify in writing to the Board of Appeals that the appropriate number of dwelling units shall be set aside to be conveyed to the Winchester Housing Authority consistent with the requirements of the state or federal programs employed before the Board of Appeals may grant a special permit for an increase in project density. In instances where the state and federal program entails a home ownership provision said units shall be sold directly from the applicant to the buyer consistent with the state or federal guidelines for such a sale. Further, the units sold by the applicant shall be counted towards the total number of affordable housing units required by the Planning Board.

3. In the instance where the Board of Appeals determines that the use of federal or state housing assistance programs will not be available in a timely fashion to be used in conjunction with the affordable housing incentives of this bylaw the Board of Appeals may allow alternative methods of meeting the affordable housing requirements. One such method that the Board of Appeals may employ shall be to require the applicant to pay a fee in lieu of providing affordable dwelling units to the Housing Authority. Said fee shall be seven (7) dollars per gross square foot for all project structures excluding uninhabitable basements, parking and recreation areas. The payment in lieu shall be made into the Winchester Affordable Housing Fund administered by the Board of Selectmen. Said payment shall be made in full before the granting of the first occupancy permit by the Building Inspector.

B. RA-120 District

The Board of Appeals may grant an increase in density above the maximum of three (3) dwelling units per acre to a maximum special permit density of eight (8) units per acre given the following conditions:

1. The applicant must designate at least 15% of the number of additional units being requested by special permit for use in conjunction with one or more state or federal housing assistance programs. In no instance shall any special permit approval create less than one affordable housing unit, and for purposes of this bylaw any calculation of required affordable housing units shall result in the fractional or decimal equivalent of one half or above shall be increased to the next highest whole number. The applicant shall be eligible to receive compensation for all designated units commensurate with the state or federal program(s) employed. However, given an agreement between the applicant and the Planning Board a specific number of units, but less than the 15% required as noted above, can be transferred directly to the Housing Authority for affordable housing purposes.

2. The applicant shall certify in writing to the Board of Appeals that the appropriate number of dwelling units shall be set aside to be conveyed to the Winchester Housing Authority consistent with the requirements of the state and federal programs employed before the Board of Appeals may grant a special permit for an increase in project density.

3. In the instance where the Board of Appeals determines that the use of federal or state housing assistance programs will not be available in a timely fashion to be used in conjunction with the affordable housing incentives of this bylaw the Board of Appeals may propose alternative methods of meeting the affordable housing requirements. One such method that the Board of Appeals may employ shall be to require the applicant to pay a fee in lieu of providing affordable dwelling units to the Housing Authority. Said fee

shall be seven (7) dollars per gross square foot for all project structures excluding uninhabitable basements, parking and recreational areas. The payment in lieu shall be made into the Winchester Affordable Housing Fund administered by the Board of Selectmen. Said payment shall be made in full before the granting of the first occupancy permit by the Building Inspector.

C. PRD

The Board of Appeals may grant an increase in density above the maximum of two (2) dwelling units per acre to a maximum special permit density of three (3) units per acre given the following conditions:

1. The applicant must designate at least 15% of the number of additional units being requested by special permit for use in conjunction with one or more state or federal housing assistance programs. In no instance shall any special permit approval create less than one affordable housing unit, and for purposes of this bylaw any calculation of required affordable housing units shall result in the fractional or decimal equivalent of one half or above shall be increased to the next highest whole number. The applicant shall be eligible to receive compensation for all designated units commensurate with the state or federal program(s) employed. However, given an agreement between the applicant and the Planning Board a specific number of units, but less than the 15% required as noted above, can be transferred directly to the Housing Authority for affordable housing purposes.

2. The applicant shall certify in writing to the Board of Appeals that the appropriate number of dwelling units shall be set aside to be conveyed to the Winchester Housing Authority consistent with the requirements of the state and federal programs employed before the Board of Appeals may grant a special permit for an increase in project density.

3. In the instance where the Board of Appeals determines that the use of federal or state housing assistance programs will not be available in a timely fashion to be used in conjunction with the affordable housing incentives of this bylaw the Board of Appeals may propose alternative methods of meeting the affordable housing requirements. One such method that the Board of Appeals may employ shall be to require the applicant to pay a fee in lieu of providing affordable dwelling units to the Housing Authority. Said fee shall be seven (7) dollars per gross square foot for all project structures excluding uninhabitable basements, parking and recreational areas. The payment in lieu shall be made into the Winchester Affordable Housing Fund administered by the Board of Selectmen. Said payment shall be made in full before the granting of the first occupancy permit by the Building Inspector.

D. The effective date of Section 6.29 in its entirety is to be April 15, 1990.

Recommendation in Winchester's 2004 Strategic Plan:

"2. Require the inclusion as a part of any new housing production consisting of ten or more units. • For private housing construction that consists of at least 10 units and less than 20 units, follow a policy that at least 10 percent of these units be affordable to low and moderate-income individuals and families. For private housing construction containing more than 20 units, at least 10 percent of the units should be affordable to low and moderate-income individuals and families and an additional 10 percent should be affordable to middle-income individuals and families. Action: Board of Selectmen adopt an inclusionary housing policy: medium term. Planning Board adopt an inclusionary zoning bylaw for Town Meeting adoption: medium term."

What year was the inclusionary/incentive provision adopted?

Ms. Viarella said (6/25/04) the provisions were passed after the 1987 regulations and not within the past 2 years.

Have affordable units been developed through this zoning mechanism?

Yes According to Ms. Viarella, 6/25/04, two units were developed in 1997 as a part of Willows (garden style). One unit was just built in the General Business district where townhouses are allowed. Another project donated money in place of designating affordable units.

From the Winchester 2004 Strategic Plan:

"• Proposed development of the 44 acre Winning Farm with 12.5 acres to be used for 145 units of assisted and independent elderly housing and the remainder reserved as conservation land. Under terms of a legal agreement, 20 percent of the housing units will be reserved for qualified low and moderate-income residents."

Winthrop

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

No

What year was the inclusionary/incentive provision adopted?

Have affordable units been developed through this zoning mechanism?

Woburn

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

Yes Under cluster zoning, the following provisions:

"3. The applicant may apply for inclusion of additional units in the cluster development, not to exceed an increase of fifteen (15) percent over the number of units established under Section 10.4.2, when an amenity such as the following is offered to the community: public access to open land for passive recreation; granting of land to City of Woburn for conservation purposes; public availability of recreational and/or daycare facilities; a matching of extra market rate units with an equal number of units to be available at construction cost to the City of Woburn Housing Authority; variation of cost or size of dwelling to permit purchase by broader market; planning to include units especially suited to elders, etc. Approval for the additional units shall be based upon the conditions set forth in Section 10.6.8."

"8. Where application has been made for the inclusion of additional units in exchange for provision of an amenity as provided in Section 10.4.3, the amenity to be provided is sufficiently beneficial to the City of Woburn, and the additional units are appropriate to the neighborhood."

What year was the inclusionary/incentive provision adopted?

Have affordable units been developed through this zoning mechanism?

Worcester

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

Yes Two provisions contain inclusionary zoning:
1. Inclusionary Zoning and Density Bonuses (applies to all developments over 12 units)
2. Continued Care Retirement Community
Cluster zoning permits also reduction in open space requirement, if density bonus is used.

City of Worcester Zoning Ordinance (Adopted 1991, Amended 2004)

"ARTICLE VII INCLUSIONARY ZONING AND DENSITY BONUSSES TO PROMOTE AFFORDABLE HOUSING

Section 1 – Purpose

It is the purpose of this Article to promote the provision of safe, sanitary and affordable housing for all sectors of the population of Worcester.

Section 2 – Application

1. For any proposed development of twelve (12) or more dwelling units, the developer may elect to provide affordable housing units and receive a density bonus upon grant of a special permit by the Planning Board. The Planning Board shall require as a condition of such a density bonus the following:

A. The provision within the development of affordable housing units amounting to a minimum of ten (10) percent of the development's total number of dwelling units. At least fifty (50) percent of said affordable housing units shall be for low income families. The affordable and low income units to be provided shall be equivalent in size, quality, and characteristics to the other units in the development. The units shall not be

grouped together; they shall be distributed among all units.

2. The Planning Board may allow, as a condition of said density bonus that, in lieu of all or some of the affordable housing units being provided within the development, the developer shall:

A. Provide all or some of the affordable housing on a site different from the development; or

B. Provide all or some of the affordable housing through an alternative means other than those already listed in this Article; or

C. Provide all or some of the affordable housing through a combination of any or all of the methods in this Article.

3. Density Bonus

The Planning Board may permit an increase in the maximum number of units permitted in the zoning district of an additional percentage 100

equal to the percentage of affordable units plus five (5) percent up to a maximum twenty-five (25) percent density bonus for twenty percent (20%) affordable housing. In RG-5 zones the maximum density bonus shall be limited to fifteen (15%) percent to prevent overcrowding. At least one-half (50%) of the additional affordable units must be for low income households (either family or elderly) as provided in Section 2-1 above. The provision of these units must be made according to the method set forth in Section 2-2 above.

4. If the Planning Board allows the provisions of some or all of the affordable housing by a method different from Section 2-2 of this ordinance, the Planning Board shall first find that such alternative method will help alleviate the undue concentration of population and encourage housing for persons of all income levels; and will encourage the most appropriate use of land and buildings, and/or avoid undue hardship to land and buildings.

5. Whenever the Planning Board authorizes the provision of off-site affordable housing units in accordance with Section 2-2 and the petitioner offers existing, rehabilitated or substantially rebuilt housing units to the City, he or she shall certify to the Code Commissioner that at the time of the developer's acquisition none of these units had been occupied at any time during the preceding twenty-four (24) months.

6. Any affordable housing unit to be provided offered for sale or rent to the general public shall have deed restrictions or some other legally enforceable instrumentality acceptable to the Planning Board ensuring its continuing affordability. The developer also may choose to offer the affordable housing units for sale to the City of Worcester, or to a municipal or non-profit agency designated by the City. Should no outside funding be available, the City, at its option, may choose to appropriate the necessary funds. Should there be no outside funding, and the City chooses not to appropriate any funds, the developer shall make the units available for lease for a period of twenty (20) years through the Worcester Housing Authority to eligible tenants under any State or Federal rent subsidy program which might be applicable. The City shall have the right to purchase all such units on the expiration of the twenty (20) year agreement at a price equal to the fair market value of said unit as established by an independent appraiser, paid for by the property owner, selected by the City. Should there be no rent subsidy program, the developer or his/her designee shall select tenants from the Worcester Housing Authority waiting lists and may not charge, as rent, an amount exceeding thirty (30) percent of the tenant's gross income. Should the Worcester

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Housing Authority not have a waiting list or any eligible tenants, the landlord shall annually certify that the income of the low and/or moderate income tenants otherwise found does not exceed eighty (80) percent of the median family income for the Worcester Metropolitan Area.

The deeds conveyed to the City of Worcester or its designated agency shall provide good and clear record and marketable title, free from mortgages and any taxes, betterments, city services, fees or other similar financial encumbrances then due and owing. Such units shall be conveyed prior to the issuance of occupancy certificates for more than twenty-five (25) percent of the project's total number of units. In the event that all housing units in a development are to be rental units, the units required shall be provided to the City of Worcester under an

agreement for a term of twenty (20) years (in five (5) year increments which are automatically renewable). The agreement shall be recorded by the developer (with a copy as recorded and filed with the Code Commissioner) in the Worcester County Registry of Deeds as a municipal lien running with the property for its entire term. Should any rental development be converted to cooperative or condominium ownership the City shall be given an option to purchase its units. If the City does not acquire the units, the obligation for the remaining term of the original twenty (20) years shall continue."

-Article VII.

CONTINUED CARE RETIREMENT COMMUNITY:

"An increase in the number of units of up to twenty-five (25) percent of the number of maximum units calculated by the above formula may be allowed. Such an increase will be based upon each unit so granted being affordable housing. In RG 5-0 zones the maximum density bonus shall be limited to fifteen (15%) percent to prevent overcrowding. In granting such increases the Planning Board shall require that the developer provide legally enforceable assurances that the units so granted will continue to be affordable housing, as herein defined."

-Article X.

What year was the inclusionary/incentive provision adopted?

1991 Zoning Ordinance adopted in 1991. Not clear if the provisions pre-date that time.

Have affordable units been developed through this zoning mechanism?

According to Joel Fontane, Worcester Planning Director, (12/17/04) the inclusionary zoning provisions have not been used much. Residential General has 5,000 sf minimum lot size. They allow high-rise, low-rise, tripple decker development. So the provisions have not been that relevant. The incentives and parking requirements might need to be adjusted.

Worcester has close to 14% affordable units, well over the 40B requirements.

Wrentham

Does the zoning bylaw/ordinance include any mandates or incentives for development of affordable units?

No 13.3 Low or Moderate Income Housing

Low or moderate income housing shall be allowed only as authorized by M.G.L ch.40B, s.20 et seq. and is excluded from ZONING DISTRICTS B-1, C-1. Any application to the Board of Appeals for a permit to construct shall comply with the SITE PLAN APPROVAL requirements of Article 8, the WATERSHED protection requirements of Article 5, all statutory requirements of M.G.L ch.40B, and all other requirements of these ZONING bylaws insofar as these are consistent with G.L Ch.40B.

Wrentham Master Plan 2004, Page 54:

Affordable housing planning in Wrentham
Wrentham's zoning bylaw contains two unusual provisions in Article 13 – Multiple Attached Housing. Article 13.2 exempts the Housing Authority from certain dimensional requirements that otherwise apply to duplexes and rowhouses and limits the Housing Authority to residential zones only. The reason for keeping all Housing Authority units out of any business zone is not clear. The other provision is "Article 13.3 Low or Moderate Income Housing." This article appears to say that the only kind of affordable housing allowed in Wrentham is Chapter 40B projects, excludes them from the B-1 and C-1 zones, and requires compliance with the zoning bylaw "insofar as these are consistent with MGL c. 40B." This bylaw is not beneficial to the town, since it seems to prohibit permanently affordable housing that is not part of a 40B project and would therefore be otherwise subject to town zoning. As an attempt to regulate 40B projects it is pointless, because the purpose of Chapter 40B is explicitly to permit projects that meet certain criteria for providing affordable housing to override local zoning and streamline the permitting process.

What year was the inclusionary/incentive provision adopted?

Have affordable units been developed through this zoning mechanism?