

ARTICLE VII – INCLUSIONARY ZONING

Section 1 – Purpose

The purpose of this Article is to advance the public good through the production of affordable housing units for rent or sale; to maintain an economically integrated community through the geographic distribution of affordable housing opportunities; and to help prevent displacement of low- to moderate-income residents.

Section 2 – Application

This Article shall apply to any development, whether new construction, conversion, adaptive reuse or expansion of an existing structure, involving the net production of twelve (12) or more dwelling units or to any division of land for development of twelve (12) or more dwelling units. Developers proposing a project that is subject to the provisions of this Article shall complete an Inclusionary Zoning Determination, on a form approved by the city of Worcester’s Housing Development Division and shall submit said form as part of a Definitive Site Plan, Special Permit or building permit application. Said Inclusionary Zoning Determination Form shall include an Affirmative Marketing Plan that complies with federal and state fair housing laws.

Notwithstanding any provisions of this Article to the contrary, this Article shall not apply to any project for which one or more applications has been filed for a preliminary or definitive site plan review; special permit; variance; or other similar building or land-use related approvals, as of the date of adoption of this Article, and said application is approved within six (6) months of the filing date. Furthermore, the provisions of this Article shall not apply to any project for which a building permit application has been submitted, as of the date of adoption of this Article, and said building permit has been issued within six (6) months of the filing date.

Section 3 – Definitions

- A. AFFORDABLE HOUSING RESTRICTION** - a deed restriction, contract, mortgage agreement, or other legal instrument, acceptable in form and substance to the city solicitor that effectively restricts occupancy of an affordable housing unit to a qualified purchaser or qualified renter that provides for administration, monitoring and enforcement of the restriction during the term of affordability, and conforms to the requirements of chapter 184, sections 26 or sections 31-32 of the General Laws.
- B. AFFORDABLE HOUSING TRUST FUND** – a fund account established by the City of Worcester and stewarded by the Affordable Housing Trust Fund Board of Trustees.
- C. AFFORDABLE HOUSING TRUST FUND BOARD OF TRUSTEES** – the executive board established pursuant to Article 3, section 18 of the Revised Ordinances of 2015, Organization of City Agencies, under the authority of chapter 44, section 55 of the General Laws.

D. AFFORDABLE HOUSING UNIT – a dwelling unit that is affordable to and occupied by a low- or moderate-income household and meets the requirements for inclusion in the Subsidized Housing Inventory (SHI) of the Massachusetts Department of Housing and Community Development (DHCD).

E. AREA MEDIAN INCOME (AMI) - the median household income for the metropolitan area that includes the City of Worcester, as defined in the annual schedule of low- and moderate-income limits published by the U.S. Department of Housing and Urban Development (HUD), adjusted for household size.

F. FAIR MARKET RENTS - Fair Market Rents (FMRs) are estimates of rent plus the cost of utilities, except telephone. FMRs are housing market-wide estimates of rents that provide opportunities to rent standard quality housing throughout the geographic area in which rental housing units are in competition. The level at which FMRs are set is expressed as a percentile point within the rent distribution of standard quality rental housing units in the FMR area. HUD publishes FMRs annually.

G. LOW- OR MODERATE-INCOME HOUSEHOLD –a household with annual earnings no greater than the eighty percent (80%) percent income limit of the Worcester, MA HUD Metro FMR Area Median Family Income, as determined by HUD in its most recent Income Limits Summary.

H. MARKET-RATE HOUSING UNIT – a dwelling unit that is free from any income-based restrictions for the occupant.

Section 4 – Affordable Housing Requirements

A. Level of Affordability

Housing developments subject to this Article shall provide not less than fifteen percent (15%) of the dwelling units as affordable to households with annual earnings no greater than the eighty percent (80%) income limit of the Worcester, MA HUD Metro FMR Area Median Family Income, as determined by HUD in its most recent Income Limits Summary; or not less than ten percent (10%) of the dwelling units as affordable to households with annual earnings no greater than the sixty percent (60%) income limit of the Worcester, MA HUD Metro FMR Area Median Family Income, as determined by HUD in its most recent Income Limits Summary; or a proportional combination thereof. Any calculation of required affordable housing units that results in the fractional equivalent of one-half or above shall be increased to the next highest whole number.

B. Maximum Rent and Sale Price

- i. The maximum rent for an affordable housing unit shall not exceed thirty percent (30%) of the gross income for the household based on the qualifying Area Median Income restriction, including the utility allowance published annually by HUD. The maximum rent shall also not exceed the FMR published annually by HUD.

- ii. Affordable housing units for sale must have a sale price that will not exceed the amount that an income-eligible household can obtain financing for through prevailing conventional or affordable mortgage products available to the general public. The sale price shall also not exceed the median sales price for the property type at the time of sale published by the Massachusetts Multiple Listing Service for the city of Worcester.

C. Preservation of Affordability

An affordable housing restriction granted to the City of Worcester on the required number of dwelling units that shall run with the land and be in force for a term of not less than thirty (30) years shall be recorded at the Worcester District Registry of Deeds.

D. Comparability

- i. Affordable units shall be indistinguishable from market-rate units in building materials, finishes, appliances, and overall construction quality.
- ii. The mix of bedroom sizes for the affordable units shall be comparable to the overall mix in the development.
- iii. The dwelling square footage for affordable units shall be comparable to the square footage of market-rate units.
- iv. Any required accessible or adaptable units in the project shall have a mix of affordable and market-rate units equal to the proportion of affordable and market-rate units for the overall project.
- v. The affordable units shall not be grouped together, but distributed throughout the development.
- vi. Occupants of affordable units shall have equal access as occupants of market-rate units to any of the building's common areas and amenities.

E. Affirmative Marketing

Affordable housing units shall be made available for rent or sale to eligible low- or moderate-income households under an affirmative marketing plan that complies with federal and state fair housing laws. No building permit shall be issued without an approved affirmative marketing plan.

F. Segmentation and Phasing

A development project may not be segmented to avoid the provisions of this Article, nor may a developer divide or subdivide property or establish surrogate or subsidiary business entities to avoid the provisions of this Article. If the project is phased, the affordable housing units shall not be delayed to the last phase.

Section 5 – Payment in Lieu

In lieu of constructing the required affordable housing units, an applicant may elect to make a payment equal to three percent (3%) of the total construction value of all building permits for the development, including trade permits. Applicants electing this option shall submit a detailed construction cost budget as part of the Inclusionary Zoning Determination mentioned above in Section 2 of this Article. Payments pursuant to this Article shall be made, in full prior to the issuance of a certificate of occupancy, to the City's Affordable Housing Trust Fund.

Section 6 – Incentives

A. To encourage housing production that meets the intent and spirit of this Article, the following incentives may be available to developments that include at least five percent (5%) of the units for the overall project with income restrictions at the sixty percent (60%) AMI limit (“Eligible Developments”):

- i. Density Bonus and Dimensional Relief – Eligible Developments are entitled to an increase in the maximum number of units permitted in the zoning district of an additional percentage equal to the percentage of affordable units plus five percent (5%) up to a maximum twenty-five percent (25%) density bonus. In RG-5 zones, the maximum density bonus shall be limited to fifteen percent (15%) to prevent overcrowding. Said increase in units shall not require additional lot area, frontage, or parking, or increase floor-area-ratios as part of this entitlement.
- ii. Off-Street Parking and Loading –
 - a. Eligible Developments are entitled to a twenty-five percent (25%) reduction from the minimum parking requirements of this Ordinance provided that the applicant submits a Transportation Management Program (TMP) to the Planning Board and the TMP is maintained in accordance with any conditions imposed by the Planning Board, as a requirement of any Definitive Site Plan Approval. Where Definitive Site Plan Approval is not required, the TMP shall be submitted to the Department of Inspectional Services concurrent with any application for a building permit.
 - b. The Planning Board may grant a special permit to modify the loading requirements; parking dimensional, landscaping, and layout requirements, including the number of required parking spaces, where it is demonstrated that with such modification there will be adequate space for off-street parking and/or loading to provide for the needs of the subject building or use. In the event a special permit application requests a reduction of the number of required parking spaces, the requirements described above in subsection (a) related to a TMP shall apply.
 - c. Where parking is reduced through a special permit under the provisions of this Article, the total reduction in parking, after applying the entitlements of this Article, shall not exceed fifty percent (50%) and may not be combined with reductions permitted in Article IV, Section 7, A. 2.