

Office of the Town Clerk

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Onorina Z. Maloney, CMMC, CMC
Town Clerk

**CERTIFICATE OF VOTE
ARTICLE 17**

**Amend Chapter 195 "Zoning Bylaw" by adopting a new zoning bylaw,
Article XXIII "Inclusionary housing Bylaw."
2015 Fall Annual Town Meeting
Second and Final Session – Thursday, October 22, 2015**

I, Onorina Z. Maloney, Town Clerk of Chelmsford Massachusetts, do hereby certify the following vote taken under Article 17 at the second and final session of the October 19, 2015 Fall Annual Town Meeting, held at the Chelmsford Senior Center 75 Groton Road, North Chelmsford. The meeting was called to order at 7:30 pm by Moderator Jon H. Kurland. There were 111 Town Meeting Representatives in attendance which satisfied the quorum of 82.

Motion under ARTICLE 17. I move that the Town amend the Town Code, Chapter 195, "Zoning Bylaw", for purposes of adopting a new section ARTICLE XXIII, "Inclusionary Housing Bylaw" as follows:

ARTICLE XXIII – Inclusionary Housing Bylaw

§195-133 Purpose and Intent

The purpose of this bylaw is to provide for the development of affordable housing in compliance with G.L. c. 40B §20-23 so that the Town's stock of affordable housing is not diluted by the creation of additional market-rate units. It is intended that any affordable housing unit created pursuant to this bylaw will qualify for inclusion in the Chapter 40B Subsidized Housing Inventory (SHI) under the regulations and guidelines of the Massachusetts Department of Housing and Community Development (DHCD), and therefore units must comply with these guidelines.

§195-134 Applicability

This section shall apply to all projects proposed within the Article XXI, Community Enhancement and Investment Overlay District (CEIOD) and Article XXII, Village Center Overlay District and the Residential Multifamily (RM) District, which involve four (4) dwelling units or more. The Planning Board shall, as a condition of approval, via majority vote, of any such development require that the applicant provide affordable housing pursuant to this bylaw and more fully described in §195-137 below. All projects shall be forwarded for review and comment to the Chelmsford Housing Advisory Board and the Chelmsford Housing Authority.

§195-135 Definitions

- A. Affordable Housing - housing which is restricted for sale or rent to individuals and families within specific income ranges and sales prices as defined by the Massachusetts Division of Housing and Community Development (DHCD).

Affordability shall be perpetual and shall be secured by the use of an affordable housing restriction as defined in M.G.L. c.184 §31. Affordable Housing units shall count as very low- or moderate-income units on the DHCD Subsidized Housing Inventory,(SHI) subject to the approval of DHCD.

- B. Ownership Units – shall be affordable to families with incomes not exceeding the HUD published low-income limit (80%) for the applicable metropolitan statistical area for Chelmsford, as published by HUD and utilized by DHCD for regulating affordable-housing programs.
- C. Rental Units – shall be affordable to families with incomes not exceeding the HUD published very low-income limit (50%) for the Lowell, MA HUD Metro FMR Area.
- D. Affordable Housing Restriction - a deed restriction for Affordable Housing meeting the statutory requirements of M.G. L. c. 184, Section 31.
- E. Department or DHCD – means the Massachusetts Department of Housing and Community Development (DHCD) or any successor agency.

§195-136 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 affordable units to be provided. 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.

§195-137 Provision of Affordable Units

The Planning Board shall require that any development, as applicable per section 195-134, for four (4) or more dwelling units in a residential or mixed use project shall be conditioned upon at least twenty-five percent (25%), prior to any consideration of density bonus per section 195-138.E, of the units subject to this bylaw be restricted 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; or
- B. by constructing, rehabilitating or designating affordable housing unit(s) on a locus different than the one subject to the application, which is not presently included in the SHI; or
- C. by offer to and approval by the Planning Board, with input from the Housing Advisory Board (and acceptance by the Selectmen on behalf of the Town), 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 compliant with zoning to support a number of affordable housing units equal to two (2) times the number of units otherwise required by Section §195-138.C; or
- D. by offer to and acceptance by the Planning Board, with input from the Housing Advisory Board, of a payment-in-lieu of money to the Town of Chelmsford's Housing Stabilization Fund.
- E. at the discretion of the Planning Board, with input from the Housing Advisory Board, and compliance with statutory requirements for the disposition and use of Town property, by development of a qualifying affordable housing unit on Town-owned land through rehabilitation or new construction.
- F. any combination of the above requirements (a)-(e) provided that in no event shall the total number of units or land area or funds provided be less than the equivalent number or value of affordable units required by this bylaw.

§195-138 Provisions Applicable to Affordable Housing

A. *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.

B. *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 size, number of bedrooms, 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.

C. *Calculation and Distribution of Number of Affordable Units.*

A number of affordable units equal to twenty-five percent (25%) of the total number of units shall be provided. Fractions of units shall be rounded up to the nearest round number.

Affordable units shall be proportionately distributed throughout the project, in terms of location, unit numbers, size, type and number of bedrooms.

D. *Calculation of Payment Fee in Lieu of Provision of Affordable Units.*

Payment-in-lieu is intended to approximate the difference between value of a market rate rental or sale unit and a sale/rent-restricted affordable unit. The table below establishes the initial payments for each affordable unit for which a payment-in-lieu of construction shall be made.

Type of Affordable Unit	Payment in Lieu
Rental	
1 bedroom	\$50,000
2 + bedrooms	\$70,000
Ownership	
1 bedroom	\$100,000
2 +bedrooms	\$125,000

From time to time, the Planning Board may by majority vote modify these per-unit fees to reflect current market conditions, following a duly noticed public hearing and consultation with the Chelmsford Housing Authority. The schedule of fees shall be kept on file in the Planning Office. Additionally, the Board may adjust the fee on a project by project basis based upon evidence from the applicant and a finding from the Board that the required fee would result in the project being uneconomic. Prior to any finding, the Board shall seek the input from the Housing Advisory Board and the Chelmsford Housing Authority.

E. *Density Bonus*

Upon a showing of exceptional design and/or public benefits, the Planning Board may, by a special permit, authorize a density bonus of up to twenty percent (20%) of the total number of dwelling units permitted in a project. Fractions of units shall be rounded up to the nearest round number. The affordability requirements of this bylaw do not apply to density bonus units. The Planning Board shall consider factors such as consistency with the Chelmsford Affordable Housing Plan, dated December 2011, or other planning documents, unit type, population served, site design amenities and public benefits that integrate the project into the neighborhood in which it is located. Density bonus units as allowed by this section shall not be applied in addition to density bonus units permitted by other sections of the By-law.

F. *Timing of construction or provision of affordable units or lots or Payment-in-lieu*

Affordable units or the payment-in-lieu shall be developed / provided concurrently with the development of market-rate units. Upon a showing of good reason, the Planning Board may allow the affordable unit(s) to be developed or restricted prior to the issuance of a certificate of occupancy for the unit that represents 50% of the number of units permitted in the proposed project.

G. *Marketing plan for affordable units.*

Applicants under this bylaw shall submit a marketing plan, consistent with DHCD guidelines, to the Planning Board for its approval, with advice from the Housing Advisory Board. The plan shall describe how the affordable units will be marketed to potential homebuyers or tenants. Subject to the approval of DHCD, this plan shall include a lottery to be conducted by the Chelmsford Housing Authority (or successor agency) for selecting buyers or tenants.

H. *Local Preference.*

At the discretion of the Planning Board, and subject to the approval of DHCD for consistency with state and federal fair-housing requirements, up to 70% of the affordable units shall be reserved for Chelmsford residents or employees of the Town of Chelmsford. In the event that the applicant or future owner is unable to sell or lease the unit to a Chelmsford resident or employee, the Planning Board may waive this provision.

I. *Provision of Affordable Housing Units Off-Site*

As an alternative to on-site provision of affordable housing, 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. 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.

§195-139 *Maximum Incomes and Selling Prices*

The maximum housing purchase price or rent for affordable units created under this bylaw shall be consistent with affordability guidelines established by DHCD or a successor agency.

§195-140 *Preservation of affordability*

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 unit in the project subject to this bylaw, until the regulatory agreement is recorded.

§195-141 *Project Changes*

The applicant may seek modifications to an approved project by submitting a written request for the same to the Planning Board. If the Planning Board determines that the change is minor in nature, it may approve the change by a simple majority vote of the Board at a regular public meeting. If the Board determines that the change is significant, it shall hold a public hearing to consider the change.

§195-142 *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.

And amend the Town's Zoning Bylaw, Chapter 195, Article XXI, Community Enhancement and Investment Overlay District", section 195-111, "Applicability", by inserting a new sub-section F. as follows:

F. Residential projects or four or more units, including increasing an existing project by four or more residential units, or a conversion of other uses to a residential use with four or more units, are subject to the requirements of Article XXIII, "Inclusionary Housing Bylaw" as applicable.

And amend The Town's Zoning Bylaw, Chapter 195, Article XXII, Village Center Overlay District, section 195-123, "Applicability" by inserting a new sub-section D. as follows:

D. Residential projects or four or more units, including increasing an existing project by four or more residential units, or a conversion of other uses to a residential use with four or more units, are subject to the requirements of Article XXIII, "Inclusionary Housing Bylaw" as applicable.

SUBMITTED BY: Planning Board
Two-Thirds Vote

Finance Committee: Majority recommends approval of Article 17

Board of Selectmen: 3 to 2 against recommendation

Robert P. Joyce, Laura Merrill and Janet Askenburg voted against. Article 17

Planning Board: 4 to 2 recommends approval

Michael Raisbeck, Precinct 1, moved to **amend** the main motion under Article 17 by striking the words in Section 195-138 Paragraph D

~~'From time to time'~~ and replace with the word '**annually**'

The electronic voting devices registered the following votes on the motion to amend:

YES: 106

NO: 17

Abstentions: 0

Amendment carries

The body was now ready to vote on the main motion, as amended.

The electronic voting devices registered the following votes:

YES: 95

NO: 32

Abstentions: 1

For clarity, the amended paragraph can be found below.


D. Calculation of Payment Fee in Lieu of Provision of Affordable Units.

Payment-in-lieu is intended to approximate the difference between value of a market rate rental or sale unit and a sale/rent-restricted affordable unit. The table below establishes the initial payments for each affordable unit for which a payment-in-lieu of construction shall be made.

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~~From time to time,~~ **Annually**, the Planning Board may by majority vote modify these per-unit fees to reflect current market conditions, following a duly noticed public hearing and consultation with the Chelmsford Housing Authority. The schedule of fees shall be kept on file in the Planning Office. Additionally, the Board may adjust the fee on a project by project basis based upon evidence from the applicant and a finding from the Board that the required fee would result in the project being uneconomic. Prior to any finding, the Board shall seek the input from the Housing Advisory Board and the Chelmsford Housing Authority.

Main motion under Article 17, as amended, carries by 2/3 vote



Onorina Z. Maloney