

**Economic Development Subcommittee**  
**April 27, 2020**  
**5:30 PM**  
**Remote Meeting Held on “Zoom” Platform**

**MINUTES**

**Members Present:** Councilors Melanie Hamblen, Glenn Jones, Andrew Bissanti,

**Members Absent:** Councilor Eamon McCarthy Earls

**Town Staff also in attendance:** Town Administrator Jamie Hellen, Chrissy Whelton - Assistant to the Town Administrator, Town Attorney Mark Cerel, Bryan Taberner - Director of Planning and Community Development, Amy Love - Town Planner, Alecia Alleyne - Administrative Assistant.

Councilor Hamblen called the meeting to order at 5:33 PM

**1. Inclusionary Zoning Bylaw Proposal:**

Town Administrator Jamie Hellen addressed the growing concerns regarding housing affordability in the Town of Franklin. He noted that housing prices in Town have steadily increased and that several neighboring communities have some form of an inclusionary zoning bylaw in place. Town Administrator Hellen noted that Franklin would like to accommodate different demographics of people within the community and the introduction of an inclusionary zoning bylaw will help in these efforts.

Community Planning Director Bryan Taberner gave an overview of the inclusionary zoning bylaw presented at the meeting. He explained that under the proposed conditions of this inclusionary zoning bylaw 25% of new housing units built on a development will have to be inclusionary units (15% affordable units and 10% moderate income units). These standards will apply to any zoning district or project with three (3) or more housing units. This will be a special permit issued through the Planning Board. Attached is a draft of the proposal.

Town Attorney Mark Cerel noted that the proposed inclusionary zoning bylaw will qualify for CPA funds if passed and the provisions of the Bylaw will not apply to single family subdivision developments.

Joe Halligan voiced concerns regarding the lack of incentives for developers and who is responsible for paying the taxes on the affordable units if they do not sell. He believes that incentives would entice developers to build and to ensure that projects have viability in the marketplace. He noted some 40B units can many times have a difficulty being sold.

Mr. Taberner noted that Franklin would want to maintain above a 10% affordable so we don't have 40B projects forced on the Town. The Town Council has the ability to negotiate tax increment financing for a development, there are also incentives for housing at the state level. He also notes that the way that the bylaw is currently written, 25% inclusionary units is non-negotiable.

Councilor Jones asks if we can hold taxes on unsold inclusionary units.

Attorney Cerel responds in the negative, yet notes to keep in mind that inclusionary units are taxed at a reduced rate.

Tony Padula inquired as to why three or more housing units were needed for the inclusionary bylaw to kick in, instead of ten or more units which is more common. He voiced concerns regarding inclusionary units bringing down values of other houses, and felt that this should be a ballot question and up for the residents to vote on. Mr. Padula inquired about the difference between inclusionary zoning and a 40b project.

Attorney Cerel responds, if we drop below 10% inclusionary units, the Town does not have any say in the construction, and it is up to the 40b developer, also this is not subject to a ballot question.

Town Administrator Jamie Hellen suggested moving this discussion to a later EDC meeting agenda for further discussions and to provide the staff with ample time to make adjustments to the bylaw based on the comments at the meeting.

**Meeting Adjourned at 6:51 PM**

# Town of Franklin

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OFFICE OF THE TOWN ADMINISTRATOR

April 24, 2020

To: Economic Development Subcommittee  
From: Jamie Hellen, Town Administrator

**Re: Inclusionary Zoning Bylaw Proposal**

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This evening will be an introduction to one of the Town Council's goals for the 2020-2021 legislative session: inclusionary zoning. I have attached a copy of the proposed bylaw which we will review this evening.

We have all heard the many concerns from residents about the affordable housing crisis in the community, ranging from people who may be struggling to own a home, who may be homeless or in a transient situation, to many children and grandchildren of lifelong Franklinites who are unable to afford a house or rental for a price that a traditional middle class family can afford. As the median income and median home value in Franklin has risen quickly in the last decade, the staff believes this is a proposal that will help achieve some of the community's concerns.

Here are some basic points on the proposal:

- Inclusionary zoning is a way to increase affordable housing stock for middle class and low income families by requiring a set amount of units of any multi-family development to have deed restricted units at various income guidelines.
- The staff are suggesting a two tiered system equalling 25% ("Inclusionary Units") of any project be deemed affordable:
  - "Affordable Units" are 15% of those units that would be under the federal HUD median income guidelines, which qualifies for credit on our Chapter 40B Standard Housing Index (SHI) system. In other words, we get credit for this 15% on our 40B percentage.
  - "Moderate Income Units" are 10% of those units would be under increased income guidelines commensurate with the Community Preservation Act (CPA), which are income guidelines set by CPA and are 20% higher to fit more with Massachusetts Housing markets. These units would not be credited under 40B,

but would address a major public concern of current and future generations not being able to afford Franklin.

- Subdivisions are not susceptible to this bylaw. Only multi-family dwellings over 3 units (rental complexes, condo complexes, and so on).
- An inclusionary plan is required for any project that is for 3 units or higher.
- Income guidelines are included in the bylaw proposal. Affordable units are determined by the federal government, moderate income units are defined by the CPA in state law.
- All of the communities surrounding Franklin have inclusionary zoning bylaw, including Medway, Bellingham, Wrentham and Norfolk with many other communities already accepting similar bylaws or considering them this year.

### Example

To illustrate how this works, use the Dean Avenue apartments as an example, which was permitted for 257 units.

If inclusionary zoning had been in place:

- 25% of the 257 is 64.25 units, which would be affordable.
- Under the proposal this would round down to 64 units.
- Thus, 64 units would be deed restricted at income guidelines to assist people trying to afford Franklin housing.
- 25 units would be at higher income limits to CPA, which is at 100% of median income to address the middle class housing crunch.
- 39 units would be a slightly lower income amount, which is 80% of median income, but would count toward our 40B percentage with the state, helping Franklin stay at above 10% to ensure our zoning does not get overruled by development proposals.

I recognize this proposal will generate many questions and look forward to a discussion.



**SPONSOR:** *Town Administration*

**TOWN OF FRANKLIN  
ZONING BY-LAW AMENDMENT 20-85XX**

**INCLUSIONARY ZONING**

**A ZONING BY-LAW TO AMEND THE FRANKLIN TOWN CODE  
AT CHAPTER 185, SECTION 51**

**BE IT ENACTED BY THE FRANKLIN TOWN COUNCIL THAT:** Chapter 185 of the Code of the Town of Franklin is hereby amended by adding the following text at §185-51. Inclusionary Zoning:

**§185-51. Inclusionary Zoning**

**A. Purpose and Intent.**

The purpose of this bylaw is to encourage the development of new multifamily housing that is affordable for rent or purchase to both low and moderate-income households. It is intended that the Inclusionary Units required by this bylaw consist of at least 15 percent Affordable Units, and an additional 10 percent Moderate Income Units, as defined below in Section B.

**B. Definitions.**

**Affordable Units:** Housing units which the Planning Board finds are affordable for rent or purchase by eligible individuals or households making less than 80% of the areawide median household income as calculated by the United States Department of Housing and Urban Development (HUD) with adjustments for family size, provided there are deed restrictions. Such units will be Local Initiative Program, Local Action Units, in compliance with the requirements for the same as specified by the Commonwealth's Department of Housing and Community Development (DHCD).

**Eligible Household:** An individual or household whose annual income is less than 80% or less than 100% of the areawide median income as determined by HUD, adjusted for household size, with income computed using HUD's rules for attribution of income to assets.

**Moderate Income Units:** Housing units which the Planning Board finds are affordable for rent or purchase by eligible individuals or households making less than 100% of the areawide median household income as calculated by HUD with adjustments for family size, provided there are deed restrictions.

**Inclusionary Units:** Multifamily housing units that are either Affordable Units or Moderate Income Units.

**C. Applicability.**

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

- (1) Any project that results in a net increase of three (3) or more multi-family dwelling units, whether by new construction or by the alteration, expansion, reconstruction, or change of existing residential or non-residential space.
- (2) Any life care facility or any elderly persons and/or handicapped persons housing development with three (3) or more dwelling units.

D. Threshold.

For developments with five (5) or less housing units the Applicant may choose the type of Inclusionary unit. The type of Inclusionary Units must be noted with the application.

E. Special Permit Process.

The development of any project set forth in Section C (above) shall require the grant of a Special Permit from the Planning Board as the designated Special Permit Granting Authority (SPGA). A Special Permit shall be granted if the proposal meets the requirements of this bylaw as well as Section 185-45.

F. Provision of Inclusionary Units.

As a condition of approval for a Special Permit, the applicant shall contribute to the local stock of affordable units in accordance with the following requirements:

- (1) Fifteen (15) percent of units shall be offered as Affordable Units, and ten (10) percent shall be offered as Moderate Income Units.
- (2) The twenty (25) percent of the units in a multiple unit development subject to this bylaw shall be established as Inclusionary Units in any one or combination of methods provided for below:
  - (a) Constructed or rehabilitated on the locus subject to the Special Permit (see Section G)
  - (b) Constructed or rehabilitated on a locus different than the one subject to the Special Permit (see Section H)
  - (c) 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 of the Inclusionary Units. The SPGA 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
- (3) The applicant may offer, and the SPGA may accept, any combination of the Section F.(2)(a)-(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 Inclusionary units required by this bylaw.
- (4) Fractions of whole numbers shall be resolved following these rules:
  - (a) Remainder of number less than 0.50 will be rounded down to the whole number.

- (b) Remainder of number equal to or greater than 0.50 will be rounded up to the next whole number.
- (5) **Affordable Units.** As a condition for the granting of a Special Permit, all Affordable Units shall be subject to an affordable housing restriction and a regulatory agreement in a form acceptable to the SPGA, the Town's Attorney and the Town Council. The regulatory agreement shall be consistent with any applicable guidelines issued by the Department of Housing and Community Development and shall ensure that affordable units can be counted toward the Town of Franklin's Subsidized Housing Inventory. The regulatory agreement shall also address all applicable restrictions listed in Section H below. The Special Permit shall not take effect until the restriction, the regulatory agreement and the special permit are recorded at the Registry of Deeds and a copy provided to the Planning Board and the Inspector of Buildings.
- (6) **Moderate Income Units.** As a condition for the granting of a Special Permit, all Moderate Income units shall be subject to an affordable housing restriction and a regulatory agreement in a form acceptable to the SPGA, the Town's Attorney and the Town Council.

**G. Provisions Applicable to Inclusionary Units On-site.**

- (1) **Siting of Inclusionary Units.** All Inclusionary 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 Inclusionary Units.** Inclusionary housing units 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 and mechanical systems of affordable units shall conform to the same specifications as apply to market-rate units.
- (3) **Timing of construction or provision of Inclusionary Units.** Where feasible, Inclusionary housing units shall be provided coincident to the development of market-rate units, but in no event shall the development of Inclusionary Units be delayed beyond the schedule noted below:

<b>Market-rate Units</b>	<b>Inclusionary Units (Percent Required)</b>	
	<b>Affordable Units</b>	<b>Moderate Income Units</b>
<b>(% Complete)</b>	<b>% Required</b>	<b>% Required</b>
<30%	-	-
30% Plus 1 Unit	10%	10%
Up to 50%	30%	30%
Up to 75%	50%	50%
75% Plus 1 Unit	70%	70%
Up to 90%	100%	100%

Fractions of Units shall not be Counted

- (4) Marketing Plan for Inclusionary Units. Applicants under this bylaw shall submit a marketing plan or other method approved by the Town through its local comprehensive plan, to the SPGA for its approval, which describes how the Inclusionary 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.

#### H. Provision of Inclusionary Housing Units Off-Site.

- (1) As an alternative to the requirements of Section G, an applicant subject to the bylaw may develop, construct or otherwise provide Inclusionary housing units equivalent to those required by Section F off-site. All requirements of this bylaw that apply to on-site provision of Inclusionary Units, shall apply to provision of off-site Inclusionary 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.

#### I. Maximum Incomes and Selling Prices: Initial Sale.

- (1) To ensure that only eligible households purchase Inclusionary Units, the purchaser of a Inclusionary 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 Municipal Affordable Housing Trust, that his/her or their family's annual income level does not exceed the maximum level as established according to the data available from the HUD and DHCD, and as may be revised from time to time.
- (2) 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.
- (3) The maximum housing cost for Moderate Income Units created under this bylaw is as established by the Town.

#### J. Preservation of Inclusionary Units; Restrictions on Resale.

- (1) Each Inclusionary Unit created in accordance with this bylaw shall have limitations governing its resale through the use of a regulatory agreement set forth in Section F(5) for Affordable Units, and Section F(6) for Moderate Income Units. The purpose of these limitations is to preserve the long-term affordability of the Inclusionary Units and to ensure its continued availability for low income and moderate income households. The resale controls shall be established through a Restriction on the property and shall be in force in perpetuity.
  - (a) Resale price. Sales beyond the initial sale to a qualified affordable income purchaser shall be determined by maximum resale price as defined by DHCD or the Town. The resale price multiplier shall be recorded as part of the Restriction on the property noted in Section J(1) above.
  - (b) Right of first refusal to purchase. The purchaser of an Inclusionary 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 DHCD, 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.

- (c) 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 J(1)(b) above. The Building Commissioner/Zoning Inspector shall not issue an occupancy permit for any Inclusionary Unit until the deed restriction is recorded.

**K. Conflict with Other Bylaws.**

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, or provisions therein, shall apply.

**L. 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 Town of Franklin's Zoning Bylaw.

The foregoing Zoning By-law Amendment shall take effect in accordance with the Franklin Home Rule Charter and Massachusetts General Law Chapter 40A, Section 5.

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**DATED:** \_\_\_\_\_, 2020

**VOTED:**  
**UNANIMOUS** \_\_\_\_\_

**A True Record Attest:**

**YES** \_\_\_\_\_ **NO** \_\_\_\_\_

**ABSTAIN** \_\_\_\_\_

**ABSENT** \_\_\_\_\_

**Teresa M. Burr, CMC**  
**Town Clerk**

**RECUSED** \_\_\_\_\_

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**Glenn Jones, Clerk**  
**Franklin Town Council**