

FRANKLIN PLANNING & COMMUNITY DEVELOPMENT

355 EAST CENTRAL STREET, ROOM 120
FRANKLIN, MA 02038-1352
TELEPHONE: 508-520-4907

MEMORANDUM

TO: JAMIE HELLEN, TOWN ADMINISTRATOR
FROM: BRYAN W. TABERNER, AICP, DIRECTOR
RE: PROPOSED ZONING CHANGES
ZONING BYLAW AMENDMENT 23-889, RESIDENTIAL USES (FORMERLY 22-889)
ZONING BYLAW AMENDMENT 23-890, INCLUSIONARY ZONING (FORMERLY 22-890)
DATE: FEBRUARY 9, 2023

The Department of Planning & Community Development (DPCD) has worked during the last several months to develop Zoning Bylaw amendments recommended in the “*Franklin For All*” zoning project, and the Town’s 2022 Housing Production Plan (HPP). Recent work, including the two subject Zoning Bylaw Amendments, address the following 1.) Housing density allowed within Commercial I (CI), and General Residential V (GRV) zoning districts; 2.) By-right multifamily housing; 3.) MBTA Communities requirements outlined in Section 3A of the Zoning Act, and 4.) Inclusionary Zoning.

The proposed changes below will create a baseline which to address additional zoning changes, including the possibility of adopting a 40R Smart Growth Overlay District, and addressing accessory dwelling units.

By-Right Multifamily Housing and related Housing Density. Currently multifamily housing developments are only allowed by-right in the Downtown Commercial zoning district (up to one dwelling unit per 2,000 square feet of lot area). In the Commercial I (CI) and General Residential V (GRV) zoning districts up to one dwelling unit per 1,000 square feet of lot area (44 housing units per acre) may be permitted by Planning Board special permit. Special Permits for dense multifamily housing are not automatically granted, and it can be difficult to obtain a permit to develop as many as 44 housing units on an acre of land. The permitting process can be very expensive for the property owner and developer, and there is no guarantee the permit will be granted.

MBTA Communities Requirements. Massachusetts passed new laws through the Acts of 2020 adding a new Section 3A to chapter 40A of MGL. Under Section 3A communities with commuter rail stations (or other MBTA service) are required to have at least one zoning district “*of reasonable size in which multi-family housing is permitted as of right*” that will “*have a minimum gross density of 15 units per acre*”.

Regulation implementing the new laws is contained in “Compliance Guidelines for Multi-family Zoning Districts” (<https://www.mass.gov/info-details/multi-family-zoning-requirement-for-mbta-communities>). The size and location of the zoning district required by Section 3A is dependent upon several factors.

Below is a table outlining the Town of Franklin’s Section 3A requirements taken from the Compliance Guidelines. To summarize the Town of Franklin’s MBTA Communities multifamily zoning requirements, the Town is required to amend its Zoning Bylaw to assure it has one or more zoning districts that in total would allow a minimum multi-family unit capacity of 1,883 housing units by-right, seventy-five percent of which must be located not more than 0.5 miles of the MBTA station.

Section 3A MBTA Communities Requirements

Community: Franklin Community Category: Commuter Rail

| Minimum multi-family unit capacity ¹ | Minimum land area of District | Percent of district to be located in station area ² |
|---|-------------------------------|--|
| 1,883 Units | 50 acres | At least 75 percent |

- 1.) Minimum multi-family unit capacity equals 15 percent of the number of housing units in Franklin at time of the 2020 U.S. Census.
2. The Station area is a half-mile circle around the MBTA commuter rail station.

The majority of CI and GRV zoning districts are within a half mile of the Downtown MBTA station. DPCD recommends amending the Zoning Bylaw’s use regulations to change the housing density allowed in the CI and GRV zoning districts, and to allow a certain number of housing units by-right. By allowing multifamily housing by right in the CI and GRV zoning districts, a developer knows it is possible to get a permit for a certain size development. If the developer wants a denser development they should be allowed to seek a Planning Board special permit.

During a series of Economic Development Committee+ meetings in the fall and early winter, the participants debated the level of housing density that should be allowed within the CI and GRV zoning districts. The Committee voted to set the density to one dwelling unit per 2,250 square feet of lot area.

The proposed density of one dwelling unit per 2,250 square feet of lot area will help the Town meet the MBTA Communities requirements stated in Section 3A; 1 unit per 2,250 sf of lot area comes to 19.36 units per acre. With the Town’s Downtown Commercial zoning district already allowing up to 1 housing unit per 2,000 sf of lot (21.78 housing units per acre) by-right, having CI and GRV allow 19.36 units per acre by-right should sufficiently address the Section 3A requirements.

Please note, DPCD staff are currently working with the Town’s GIS Department and planners from the Metropolitan Area Planning Council (MAPC) to assess whether or not the proposed changes above would actually meet the Section 3A requirements.

One small Zoning Bylaw amendment that would make a few minor changes to Part VI of the Use Regulations tables (Attachment 7 of the Zoning Bylaw) will make the proposed changes above possible. However, the above proposed changes do not deal with affordable housing issues.

Inclusionary Zoning. DPCD has worked on developing an Inclusionary Zoning (IZ) Bylaw for several years; during that time much has happened, including the HPP, the “Franklin For All” study, and by-right multifamily requirements for MBTA Communities. Over the last couple months the State has amended the requirements of MBTA Communities regarding affordable housing; one change is as follows: DHCD “will consider an affordability requirement to be consistent with as of right zoning as long as the zoning requires not more than 10 percent of the units in a project to be affordable units”.

For that reason, requiring more than ten percent affordable housing units in the Downtown Commercial, Commercial I, and General Residential V zoning districts is not allowed (unless the units are more than half mile from the MBTA Station). The newest DHCD guidance also states to be consistent with as of right zoning “the cap on the income of families or individuals who are eligible to occupy the affordable units is not less than 80 percent of the area median income”. These changes required DPCD to update the Inclusionary Zoning (IZ) Bylaw. The updated version is simplified in that it only requires 10% affordable units for all multifamily housing developments of ten (10) or more units.

Proposed Zoning Bylaw Amendments. Attached are two proposed zoning bylaw amendments related to the issues discussed above.

Zoning Bylaw Amendment 23-889, Multifamily Housing Density. The proposed bylaw makes several small changes to Part VI of the Use Regulations tables. Most importantly it allows multifamily housing in the CI and GRV zoning districts by-right, up to 1 unit per 2,250 SF of lot area. And it allows the developer to apply for additional density by special permit. The following wording is included in the Use Regulations table related to multifamily housing of 4 or more units in CI and GRV:

No more than one dwelling unit per 2,250 square feet of lot area may be permitted; additional dwelling units may be allowed by Special Permit from the Planning Board.

Another important change was replacing one row in the Residential Use Regulations table with two rows, which define two types of multifamily housing:

- 6.1 Multifamily or Apartment
 - a. With Four or More Housing Units
 - b. With Three Housing Units.

Splitting the use into two allows a 3 unit development to be allowed in certain districts where other larger multifamily developments are not.

Zoning Bylaw Amendment 23-890, Inclusionary Zoning. The Zoning Bylaw amendment adds a new section to the Town's Zoning Bylaw: §185-51 Inclusionary Zoning. Multifamily developments with 10 or more housing units will be required to have at least ten percent of the housing units available for rent (or purchase) by eligible individuals or households making less than 80% of the area wide median household income.

I request the Town Council vote to refer the Zoning Amendments to the Planning Board for a Public Hearing. Please let me know if you have questions or require additional information on any of the above issues.

Town of Franklin

355 East Central Street
Franklin, Massachusetts 02038-1352



Phone: (508) 520-4907
www.franklinma.gov

PLANNING BOARD

The following notice will be published in the Milford Daily Newspaper once on Monday, February 27, 2023 and again on March 6, 2023

FRANKLIN PLANNING BOARD PUBLIC HEARING NOTICE

In accordance with the provisions of M.G.L. Chapter 40A, Section 5, notice is hereby given that the Planning Board will hold a Public Hearing on Monday, March 13, 2023 at 7:00 PM and the Town Council will hold a Public Hearing on Wednesday, April 12 at 7:00 PM to consider amending Chapter 185 of the Code of the Town of Franklin.

ZONING BY-LAW AMENDMENT 23-890

That Chapter 185 of the Code of the Town of Franklin is hereby amended by adding a new Section §185-51. Inclusionary Zoning.

The exact text of the proposed zoning bylaw addition is posted on the website along with the hearing notice.

Please contact the Department of Planning & Community Development at (508) 520-4907 if you require further information or if you need to make arrangements to provide translation services for the hearing impaired, or for persons with language barriers.

Copies of the plan and supporting documentation may be reviewed in the Department of Planning & Community Development during regular office hours.

Greg Rondeau, Chairman



SPONSOR: *Town Administration*

**TOWN OF FRANKLIN
ZONING BY-LAW AMENDMENT 23-890 (FORMERLY 22-890)**

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 a new Section at §185-51. Inclusionary Zoning, to read as follows:

§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 affordable housing units required by this bylaw consist of at least 10 percent Inclusionary Units as defined below in Section B.

B. Definitions.

Inclusionary 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% of the area wide median income as determined by HUD, adjusted for household size, with income computed using HUD's rules for attribution of income to assets.

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 ten (10) 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 ten (10) or more dwelling units.

D. Permit Process.

The development of any multifamily housing project set forth in Section C above shall be permitted either by right, or through a special permit process. Please refer to Section 185 Attachment 7, Use Regulation Schedule Part VI, Residential uses.

E. Special Permit Process.

The development of any project that requires a special permit set forth in Section C above requires the grant of a Special Permit from the Planning Board as the designated Special Permit Granting Authority (SPGA).

- (1) 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 Permit for multifamily housing, the applicant shall contribute to the local stock of affordable units in accordance with the following requirements:

- (1) Ten (10) percent of units shall be offered as Inclusionary Units.
- (2) 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 a multifamily housing Permit (see Section G);
 - (b) Constructed or rehabilitated on a locus different than the one subject to the multifamily housing Permit (see Section H);
 - (c) An applicant may offer, and the Town may accept, donations of land in fee simple, on or off-site, that the Town 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 Town 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 Town 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) All Inclusionary Units shall be subject to an affordable housing restriction and a regulatory agreement in a form acceptable to the Town's Attorney and the Municipal Affordable Housing Trust. 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 Sections G and H below. The multifamily housing Permit shall not take effect until the restriction, the regulatory agreement, and the special permit if applicable, are recorded at the Registry of Deeds and a copy provided to the Planning Board, the Inspector of Buildings, and the Municipal Affordable Housing Trust.

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 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:

| Market-rate Units (% Complete) | Inclusionary Units (Percent Required) |
|---|---------------------------------------|
| <30% | - |
| 30% Plus 1 Unit | 10% |
| Up to 50% | 30% |
| Up to 75% | 50% |
| 75% Plus 1 Unit | 70% |
| Up to 90% | 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 Planning Board 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 above, an applicant subject to the bylaw may develop, construct or otherwise provide Inclusionary 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 Planning Board as an integral element of the multifamily housing 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 an 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 Inclusionary 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.

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). 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 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) As a condition for a multifamily housing Permit under this bylaw, the applicant will 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 Enforcement Officer 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.

DATED: _____, 2023

VOTED: _____

UNANIMOUS: _____

A TRUE RECORD ATTEST:

YES: _____ **NO:** _____

ABSTAIN: _____ **ABSENT:** _____

RECUSED: _____

Nancy Danello, CMC
Town Clerk

Glenn Jones, Clerk
Franklin Town Council

Town of Franklin

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PLANNING BOARD

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ZONING BY-LAW AMENDMENT 23-889

That Chapter 185 of the Code of the Town of Franklin is hereby amended by additions and deletions to §185, Attachment 7, Part VI, Use Regulation Schedule: Residential Uses, Multifamily or Apartment.

The exact text of the proposed zoning bylaw amendment is posted on the website along with the hearing notice.

Please contact the Department of Planning & Community Development at (508) 520-4907 if you require further information or if you need to make arrangements to provide translation services for the hearing impaired, or for persons with language barriers.

Copies of the plan and supporting documentation may be reviewed in the Department of Planning & Community Development during regular office hours.

Greg Rondeau, Chairman



SPONSOR: *Town Administration*

**TOWN OF FRANKLIN
ZONING BY-LAW AMENDMENT 23-889 (FORMERLY 22-889)**

**A ZONING BY-LAW TO AMEND THE FRANKLIN TOWN CODE AT
CHAPTER 185, ATTACHMENT 7. PART VI, USE REGULATION SCHEDULE:
RESIDENTIAL USES**

BE IT ENACTED BY THE FRANKLIN TOWN COUNCIL THAT:

Chapter 185 of the Code of the Town of Franklin is hereby amended by the following additions (~~xyz~~) and as deletions (~~xyz~~) to §185, Attachment 7, Part VI, Use Regulation Schedule: Residential Uses, Multifamily or Apartment:

185 Attachment 7
USE REGULATION SCHEDULE
PART VI

Symbols in the Use Regulations Schedule shall mean the following:

- Y = A permitted use.
- N = An excluded or prohibited use.
- BA = A use authorized under special permit from the Board of Appeals.
- PB = A use authorized under special permit from the Planning Board.
- P/SP = Permitted as of right. A special permit from the Board of Appeals is required if the proposed project results in an increase in estimated water consumption of more than 15,000 gallons per day.

| Principal Uses | District | | | | | | | | | | | | | | | | | | | |
|---|----------------|----|------|------|-----|-----|----------------|----|------------------|-------------------|----|------------------|-----|------------------|---|---|----|-------------------|-----|--|
| | RR | RV | RRII | RVII | SFR | III | SFR | IV | GRV | NC | RB | CI | CII | DC | B | I | LI | O | MBI | |
| 6. Residential | | | | | | | | | | | | | | | | | | | | |
| 6.1 Multifamily or Apartment | N ⁴ | | N | | N | | N | | PB ² | PB ⁴ | N | PB ² | N | Y ^{5,6} | N | N | N | PB ^{7,8} | N | |
| a. With Four or More Housing Units ⁴ | N ¹ | | N | | N | | N | | Y ^{2,3} | PB ^{2,8} | N | Y ^{2,3} | N | Y ^{5,6} | N | N | N | PB ^{7,8} | N | |
| b. With Three Housing Units | N | | N | | N | | N | | Y ² | Y ² | N | Y ² | Y | Y | N | N | N | N | N | |
| 6.2 Single-family | Y | | Y | | Y | | Y | | Y | Y | Y | Y | Y | N | N | N | N | N | N | |
| 6.3 Two-family | | | | | | | | | | | | | | | | | | | | |
| a. New | N | | N | | N | | Y ² | | Y ² | Y ² | N | Y | Y | N | N | N | N | N | N | |
| b. By conversion | BA | | BA | | BA | | BA | | Y | Y | N | BA | Y | BA | N | N | N | N | N | |

NOTES:

1. Except PB in RVI District (see § 185-38), per § 185-38, and RVII District per § 185-50.
2. Lot area must be at least 25% greater than that required for a single-family dwelling.
3. No more than one dwelling unit per 1,000 2,250 square feet of lot area may be permitted; additional dwelling units may be allowed by Special Permit from the Planning Board.
4. ~~No more than one dwelling unit per 3,000 square feet of lot area may be permitted.~~ All multifamily developments with 10 or more housing units are required to address the Affordable Housing requirements in § 185-51.
5. All dwelling units shall be located on floors above the street level floor.
6. No more than one dwelling unit per 2,000 square feet of lot area will be permitted; additional dwelling units may be allowed by Special Permit from the Planning Board.
7. All multi-family residential developments require a minimum of 5-acres.
8. No more than one dwelling unit per 3,000 square feet of lot area will be permitted.

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.

DATED: _____, 2023

VOTED: _____

UNANIMOUS: _____

A TRUE RECORD ATTEST:

YES: _____ **NO:** _____

ABSTAIN: ____ **ABSENT:** ____

RECUSED: _____

Nancy Danello, CMC
Town Clerk

Glenn Jones, Clerk
Franklin Town Council