

## **INCLUSIONARY HOUSING (Town of Duxbury, Prepared by J. Witten)**

### **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**

**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 Plymouth County median income as reported by the U.S. Department of Housing and Urban Development, including units listed under G.L. c 40B sec. 20-23 and the Commonwealth's Local Initiative Program.

**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**

**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.

**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 of 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 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 selling 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.

Constructed or rehabilitated on the locus subject to the special permit;

Constructed or rehabilitated on a locus different than the one subject to the special permit (see Section 560.9);

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;

An equivalent fees-in-lieu of payment may be made (See Section 560.12, below).

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 of value of affordable units required by this Bylaw.

#### **560.6 Provisions Applicable to Affordable Housing Units On- and Off-site**

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.

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.

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% 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 Local Preference** - The Planning Board of board of Appeals shall require the applicant to comply with local preference requirements, if any, as established by the Board of Selectmen.

**560.8 Marketing Plan for Affordable Units**

Applicants under this Bylaw shall submit a marketing plan or other method approved by the Planning Board of Board of Appeals, to be 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.

**560.9 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.

**560.10 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 Duxbury 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.

### **560.11 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 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.

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 560.11. 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.

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.

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.

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 set-asides and accompanying restrictions on affordability, including the execution of the deed rider noted in Section 560.11. 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.

### **560.12 Fees-in Lieu of Affordable Housing Unit Provision**

As an alternative to the requirements of Section 560.5, and as allowed by law, an applicant may contribute to the Duxbury 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 off-site.

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. Unless and until adjusted by Town Meeting, the fee in lieu of the construction of affordable units shall increase three (3%) percent every twelve months from the effective date of this Bylaw.

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.